817.

SUPREME COURT OF THE UNITED STATES.

No. 77.

THE UNITED STATES

VERSUS

JAMES PAUL.

DIVISION IN OPINION OF THE JUDGES OF THE CIRCUIT COURT U. S. FOR THE SOUTHERN DISTRICT OF NEW YORK.

The President of the United States of America to all persons to whom these presents shall come, greeting:

Know ye, that we, having caused to be inspected the records and files of the circuit court of the United States of America for the southern district of New York, in the second circuit, do find there remaining a certain paper writing in the words and figures following, to wit:

THE UNITED STATES *vs.* JAMES PAUL.

This case was certified from the circuit court for the second circuit, southern district of New York.

UNITED STATES OF AMERICA.

At a stated circuit court of the United States for the southern district of New York, in the second circuit, begun and held at the city hall of the city of New York, within and for the circuit and district aforesaid, on the last Monday of October, in the year of our Lord one thousand eight hundred and thirty.

SOUTHERN DISTRICT OF NEW YORK, ss.

The jurors for the United States of America within and for the circuit and district aforesaid on their oaths present, that James Paul, late of West Point, on the 10th day of September, in the year of our Lord 1830, about the hour of ten in the night of the same day, with force and arms, at West Point, in the county of Orange, within the State of New York, under the sole jurisdiction of the United States of America, and within the jurisdiction of this court, (the store of John H. Lane, in which said store goods and merchandise, the property of the said John H. Lane, was kept for use and sale,) there situate, feloniously and burglariously did break and enter, with intent the goods and merchandise of the said John H. Lane in the said store then and there being found, then and there feloniously and

burglariously to steal, take, and carry away, against the peace of the people of the United States and their dignity.

To which indictment the prisoner pleaded not guilty, and by his counsel moved that the said indictment be quashed upon the following ground:

That the third section of the act of Congress entitled "An act more effectually to provide for the punishment of certain crimes against the United States and for other purposes," passed March 3d, 1825—Laws U. S. vol. 7, p. 393—is to be limited to the laws of the several States in force at the time of its enactment.

By the revised statutes of the State of New York, passed in 1829, vol. 2 Rev. Stat., p. 669, part 4, ch. 1, title 3d, art. 2, sec. 17, a burglary in the third degree is enacted a breaking and entering, in the day or night, any shop, store, &c., in which any goods, &c., are kept for use, sale, or deposit, with intent to steal therein, or commit any felony; and by the 21st of the same act, this offence is punishable by imprisonment in the State prison for a term not exceeding five years.

Upon the said question thus occurring before the said court the opinions of the said two Judges were divided, and upon request of counsel, the point upon which the said division of opinion occurred is here stated in manner aforesaid, under the direction of the said Judges, and certified under the seal of the said court, to the Supreme Court of the United States, at their next session, to be held at the city of Washington on the second Monday of January, A. D. 1831.

JAMES A. HAMILTON,
U. S. D. A. for the S. D. of N. Y.
WASHINGTON QUINCY MORTON,
Of counsel for prisoner.

All which said paper writing we have, by these presents, caused to be exemplified and set forth, and the seal of the said circuit court of the United States of America for the southern district of New York, in the second circuit, to be hereunto affixed. Witness the honorable John Marshall, Esq., Chief Justice of the Supreme Court of the United States of America, at the city of New York, this second day of March, anno Domini one thousand eight hundred and thirty-one, and in the fifty-fifth year of our independence.

FRED. J. BETTS, *Clerk.*

SUPREME COURT OF THE UNITED STATES

No.

BENJAMIN

Writ, &c.
Declaration
Pleas
Duces tecum
Writ, Christopher
Declaration
Pleas and
Writ of
Return of
Plat accom
Sheriff's
Judgment
Writ, Christopher
Declaration
Verdict
Execution in
Return on same
Plat of premises
Sheriff's return
Judgment of court
Writ, Jeremiah
Declaration
Verdict
Execution in partition
Return on same
Plat of premises
Sheriff's return
Judgment of court
Clerk's certificate
Writ, William

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FRED. J. BETTS, *Clerk.*

818.

SUPREME COURT OF THE UNITED STATES.

No. 78.

BENJAMIN GOULD AND OTHERS, PLAINTIFFS IN ERROR,

VERSUS

OLIVER SAUNDERS.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE DISTRICT OF RHODE ISLAND.

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WRIT.

RHODE ISLAND DISTRICT, sc.—*The President of the United States of America to the Marshal of said district, or to his deputy, greeting.*

We command you to arrest the body of Benjamin Gould, of North Providence, in the State of Rhode Island, yeoman, alias trader, alias butcher, a citizen of the district of Rhode Island, if he may be found in your district, and, for want of his body, to attach his goods and chattels to the value of one thousand dollars, and him or them in safe custody keep, to answer the complaint of Oliver Saunders, of Woodstock, in the State of Connecticut, yeoman, a citizen of the district of Connecticut, at the next circuit court to be holden at Providence, within and for the Rhode Island district, on the fifteenth day of November next ensuing the date hereof, in an action of ejectment for the recovery of one part of two certain tracts or parcels of land, lying in North Providence, in said Rhode Island district, containing about two hundred and twenty acres, now in the possession of the defendant, and to the plaintiff belonging, and from the possession of which the defendant has with force and arms ejected the plaintiff, as by the declaration to be filed in court will be fully set forth, to the damage of the plaintiff one thousand dollars. Hereof fail not, and make true return of this writ, with

8 M.

your doings thereon. Witness the Hon. John Marshall, Esquire, our Chief Justice, at Providence, this 17th day of October, Anno Domini 1827.

BENJAMIN COWELL, *Clerk.*

MARSHAL'S RETURN.

UNITED STATES OF AMERICA, } *sc.*
Rhode Island District, }

October 22, 1827. I arrested the body of the within named Benjamin Gould, and have accepted of Daniel Gould as his bail, as commanded.

BURRINGTON ANTHONY, *Marshal.*

Fees.—Service $2 00
Bail 50
Travel 20

$2 70.

DECLARATION.

RHODE ISLAND DISTRICT, sc.—*Circuit Court of the United States, Rhode Island district, November term,* 1827.

Oliver Saunders, of Woodstock, in the State of Connecticut, yeoman, a citizen of the district of Connecticut, complains of Benjamin Gould, of North Providence, in the State of Rhode Island, yeoman, alias trader, alias butcher, a citizen of the district of Rhode Island, in the custody of the Marshal, in an ejectment, for that the plaintiff, at said North Providence, on the first day of September, was seized and possessed in his demesne, as of fee, of two certain lots of land, lying in North Providence, bounded and described as follows, to wit: the first of said lots contains about eighty acres more or less, and is bounded northerly on land of the heirs of Christopher Dexter, deceased, easterly on Moshassuck river, so called, and westerly on the old road leading northerly from Randall's bridge, so called, coming nearly to a point at said bridge: the second of said lots or tracts of land contains about one hundred and forty acres, more or less, and is bounded westerly by the Pawtucket turnpike road, northerly by land of the heirs of Jeremiah Sayles, and easterly by land of the heirs of Thomas Arnold and of land of Timothy Greene, and southerly by land of the heirs of Jeremiah Dexter, deceased, and of land belonging to the heirs of Thomas Arnold, deceased; both of said tracts of land are the same that Moses Dexter, late of North Providence, deceased, lately died seized of; and being so seized and possessed, the defendant then afterwards, to wit, on the same day and year, at said North Providence, illegally, unjustly, and with force and arms, entered in and upon the possession of the same, and the plaintiff therefrom ejected, expelled, and removed; and the possession of the same from the plaintiff the defendant still withholds, to the damage of the plaintiff one thousand dollars, as laid in his writ dated the 17th day of October, in the year 1827; and therefore he sues, by his attorney,

JOHN WHIPPLE.

PLEAS.

1.

RHODE ISLAND DISTRICT, sc.—*Circuit Court, November term*, 1827.—*In the action Oliver Saunders* vs. *Benjamin Gould.*

And the defendant comes into court, and defends, &c., when, &c., and says he holds the premises described in the plaintiff's writ and declaration, by lease, for the term of one year, ending on the first day of April, 1828, from David Gould, of Providence, of whose title the defendant is ignorant. Wherefore, he prays that a summons, or such notice as the court may deem proper, may be issued to the said David Gould, to come into court and take on himself the defence, or aid the defendant in the defence of this suit, by his attorney,

THOMAS BURGESS.

2.

In the suit Oliver Saunders vs. *Benjamin Gould.—November term*, 1827.

And now, at the present term of this honorable court, the defendant comes into court, and defends, &c., when, &c., and says he is not guilty in manner and form as the plaintiff has declared against him; and of this, &c., by his attorneys,

ROBBINS, BURGESS, and RANDALL.

3.

RHODE ISLAND DISTRICT, sc.—*Circuit Court, November term*, 1827.—*In the case Oliver Saunders* vs. *Benjamin Gould.*

And now, at the present term, here comes into court, on the fifth day of the term, Joseph Randall, William Randall, John Randall, Stephen Randall, Martha Howell, Sally Brown, by her guardian Stephen Martin, Amey Martin, Israel Arnold, Susannah Dexter, Anna Dexter, Freelove Dexter, Stephen Dexter, Edward Dexter, Amey Brown, Edward Dexter, jr., and Thomas P. Ivis, and claim to be interested with sundry other persons in the premises described in the plaintiff's declaration, and here take upon themselves the defence of said action, so far as the premises belong to them, by their attorneys,

THOMAS BURGESS and
DEXTER RANDALL.

DUCES TECUM.

RHODE ISLAND DISTRICT, sc.—*The President of the United States to William R. Watson, Esq., clerk of the Court of Common Pleas within and for the county of Providence, greeting:*

We command you, that, laying aside all other business, you be and appear before our said court without delay, and have you before said court the original papers in the several cases now on file in your office, William Brown and others, the children of Stephen Dexter, are plaintiffs in partition, and Joseph Dexter, an infant, is defendant; and, also, the case wherein the said Joseph (who sued by his guardian, Thomas Lapham,) is plaintiff, and Jeremiah Dexter defendant; and have you there this writ.

Witness the Honorable John Marshall, our Chief Justice, this 16th day of June, A. D. 1828.

BENJAMIN COWELL, *Clerk.*

820.

In obedience to the within command, I am here in court with the papers required, and also this writ.

WILLIAM R. WATSON.

NEWPORT, *June* 17, 1828.

I certify that I travelled 30 miles to attend said court, and attended 3 days.

WILLIAM R. WATSON.

CLERK'S OFFICE U. S. CIRCUIT COURT,
In Providence, November 11, 1828.

Received of B. Cowell, clerk, the original papers mentioned above: papers brought into court.

WILLIAM R. WATSON.

WRIT.

CHRISTOPHER DEXTER AND OTHERS, *vs.* JOSEPH DEXTER. } *Providence, sc.*

George the Second, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c., to the Sheriff of our county of Providence, or to his deputy, greeting:

We command you to summon Joseph Dexter, of Providence, in our county of Providence, gentleman, an infant, (if he may be found in your precinct,) to answer the complaint of Christopher Dexter, yeoman, and Edward Dexter, mariner, both of said Providence, at the next inferior court of common pleas, to be holden at Providence, within and for our said county of Providence, on the third Tuesday of June next ensuing the date hereof, in an action of partition, that he, the defendant, justly and without delay, partition make with the petitioners of one certain tract of land, situate in said Providence, containing about one hundred and sixty acres, consisting partly of wood land and partly of meadow land, sixty acres thereof appertaineth to the defendant; sixty acres thereof appertaineth to the petitioner Edward; also, one hundred and eight acres of land, situate in Gloucester, consisting of wood land, appertaining to the petitioner Edward; which aforesaid premises the petitioner and defendant do hold together undivided and in common, partition whereof by law ought to be made, as by declaration to be filed in court will be fully set forth; the not making of which partition is to the damage of the plaintiff five thousand pounds, current money of New England. Hereof fail not, and make true return of this writ, with your doings thereon. Witness Daniel Jenckes, Esq., at Providence, this twenty-first day of May, in the thirty-third year of our reign, A. D. 1760.

NICHOLAS BROWN, *Clerk.*

Summoned the within named defendant, agreeable to the within summons.

ALLIN BROWN *Sheriff.*

Fees, 17s.

DECLARATION.

PROVIDENCE, sc.—*To the Honorable Inferior Court of Common Pleas, to be holden at Providence, in and for the county of Providence, on the third Tuesday of June, A. D.* 1760.

Christopher Dexter, yeoman, and Edward Dexter, mariner, both of Providence, in the county of Providence, complain against Joseph Dexter, of said Providence, gentleman, an infant, legally summoned, in an action of partition, that he, the defendant, justly and without delay, partition make with the petitioners of one tract of land, situate in said Providence, containing about two hundred and eleven acres, consisting partly of wood land, and partly of meadow land, sixty acres whereof, being butted and bounded as followeth: northerly on a ditch running through the meadow and upland to the highway, then ranging with said highway southeasterly to the river, then to range with the river to the first mentioned bounds, appertains and belongs to the defendant; sixty acres whereof, being butted and bounded as followeth: beginning at the river at the end of the said ditch, running westerly through said meadow and upland to Peter Randall's land, then to run northeasterly to a pine tree, then easterly to a white oak tree, then southerly to the corner of John Powers's land, then easterly to said river, then to range with the river to the first mentioned bounds, appertains to the petitioner Christopher; and the remaining part thereof, being about ninety acres, and butted and bounded as followeth: beginning at the southeast corner of Cornelius Easton's land, then westerly to the river, then to range with the river to Dexter's bridge, then to range with the highway till it meets with Dexter's brook, then northerly, to range with the county road, to the first mentioned bounds; the other of said tracts, bounded at the end of said line dividing the meadows and the upland, then westerly to Peter Randall's land, then southerly, to range with Peter Randall's land, till it meets with his west line, then easterly to said road, then northerly with said road to the first mentioned bounds, appertains to the petitioner Edward; as also one other tract of land, situate in Gloucester, in said county, consisting of wood land, containing one hundred and eight acres, being butted and bounded as followeth: westerly on the small lots called the head lots, and lieth a little northward of a lot laid out to Mr. John Smith, which aforesaid one hundred and eight acres was laid out to the aforesaid Stephen Dexter by Elisha Knowlton, surveyor, as by a return thereof hereto annexed may more fully appear, and which appertaineth to the petitioner Edward; which aforesaid premises the petitioner and defendants do hold together, undivided and in common, partition whereof by law ought to be made, that petitioner and defendants may hold their respective proportions as aforesaid in the same in severalty for ever.

And whereupon the petitioner complains, and says that Stephen Dexter, late of Providence aforesaid, yeoman, deceased, was in his lifetime seized of the premises aforesaid in fee, and, being thereof so seized, on or about the twenty-eighth day of December, A. D. 1750, for the consideration of the love and affection he had for them, the petitioner and defendants, and for their better support and advancement in life, did make a testament of, and did thereby give, enfeoff, and convey the premises aforesaid, in manner following, to wit: unto the said Joseph, his heirs and assigns for ever, the aforesaid sixty acres, described as aforesaid, and the aforesaid sixty acres unto the petitioner Edward, his heirs and assigns for ever; and, at said time,

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delivered seisin and possession of the whole of said premises unto the petitioner and defendant; whereupon they, the petitioner and defendant, at the time aforesaid, became seized of the said premises in fee, and held the same in common.

Now the petitioner says, that, by law, partition ought to be made of said premises, that they, the petitioner and defendants, may hold and enjoy their respective proportions as aforesaid in the same in severalty for ever. Yet the defendant, although often requested to make partition of the premises aforesaid with the petitioners, hath at all times refused, and the defendant doth still refuse, to the damage of the petitioners five thousand pounds, current money of New England, as laid in their writ, dated the twenty-first day of May, in the thirty-third year of his Majesty's reign, A. D. 1760; and thereon they sue, by

ANDREW, *for the petitioners.*

PLEA.

And the defendant, by Cornelius Easton, his guardian, comes into court, and defends the force and injury when, &c., and for plea saith that he doth not hold the lands in common with the plaintiffs, as the plaintiffs declare; and of this he puts himself on his country, by

SILAS DOWNER,
Attorney for the Guardian.

VERDICT.

We find that partition be made as the plaintiffs in their declaration have demanded.

WRIT OF PARTITION.

PROVIDENCE, sc.—*George the Second, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c., to the Sheriff of our county of Providence, in our colony of Rhode Island, greeting:*

Whereas Christopher Dexter, yeoman, and Edward Dexter, mariner, both of Providence, in the county of Providence, commenced an action of partition against Joseph Dexter, of said Providence, gentleman, an infant, at an inferior court of common pleas, begun and held at Providence, within and for the county of Providence, on the third Tuesday of June last past, that he, the defendant, justly and without delay, partition make with the plaintiffs of tract of land, situate in said Providence, containing about two hundred and eleven acres, consisting partly of wood land and partly of meadow land, sixty acres whereof, being butted and bounded as followeth: northerly on a ditch running through the meadow and upland to the highway, then ranging with said highway southeasterly to the river, then to range with the river to the first mentioned bounds, appertains and belongs to the defendants; sixty acres whereof, being butted and bounded as followeth: beginning at the river at the end of the ditch, running westerly through said meadow and upland to Peter Randall's land, then to run northeasterly to a pine tree, then easterly to a white oak tree, then southerly to the corner of John Powers's land, then easterly to said river, then to range with the river to the first mentioned bounds, appertains to the plaintiff Christopher; and the remaining part thereof, being about ninety acres, and butted and bounded as followeth: beginning at the southeast corner of Cornelius Easton's land,

then westerly to the river, then to range with the river to Dexter's bridge, then to range with the highway till it meets with Dexter's brook, then northerly, to range with the county road to the first mentioned bounds. The other of said tracts, bounded at the end of said line dividing the meadow and the upland, then westerly to Peter Randall's land, then southerly to range with Peter Randall's land till it meets with his west line, then easterly to the road, then northerly with said road to the first mentioned bounds, appertains to the plaintiff Edward; as also one other tract of land, situate in Gloucester, in said colony, consisting of wood land, containing one hundred and eight acres, being butted and bounded as followeth: westerly on the small lots called the head lots, and lieth a little northward of a lot laid out to Mr. John Smith, which aforesaid one hundred and eight acres was laid out to the aforesaid Stephen Dexter by Elisha Knowlton, surveyor, as by a return thereof may more fully appear, and which appertains to the plaintiff Edward: which aforesaid premises the plaintiffs and defendant do hold together undivided and in common. When and where judgment was rendered, by the consideration of the judges of our said court, that partition be made of said premises, as the plaintiffs have demanded, that they, the plaintiffs and defendant, may hold and enjoy their respective proportions as aforesaid in the same in severalty for ever; and that the said plaintiffs recover and have of the defendants their costs of suit, taxed at £24 2*s.* 4*d.* We command you, therefore, that, in your proper person, you go to the lands and premises aforedescribed, and that you, by the oaths of twelve lawful men of your county, make partition thereof between the parties, by setting off and assigning unto the said Joseph Dexter the aforesaid sixty acres, described as aforesaid, unto the said Christopher Dexter the aforesaid sixty acres, described as aforesaid, and unto the said Edward Dexter the other and remaining one hundred and ninety-eight acres, described as aforesaid, having no greater regard to the elder than to the younger; and that of the goods and chattels of the said Joseph Dexter, within your precinct, you execute and levy the aforesaid sum of twenty-four pounds two shillings and four pence, current money of our said colony, old tenor, together with fourteen shillings for this execution, and the return thereof, as also the lawful fees that shall be due for serving thereof, and therewith satisfy and pay the aforesaid Christopher Dexter and Edward Dexter; and for want of sufficient estate of the said Joseph Dexter to be by you found, to satisfy and pay the same as aforesaid, we command you to take the body of the said Joseph Dexter into your custody, and him safely secure in our jail in Providence, in our said county of Providence, till that he satisfy and pay the aforesaid Christopher Dexter and Edward Dexter the aforesaid sum, or that he by them therefrom discharged. Hereof you are not to fail, but make true return to our next inferior court of common pleas, to be holden at Providence, within and for our said county of Providence, on the third Tuesday of December instant, how you serve this writ. Witness Daniel Jenckes, Esq., at Providence, this first day of December, in the thirty-fourth of our reign, Anno Domini 1760.

NICHOLAS BROWN, *Clerk.*

PARTITION.

To all persons to whom this writing indented may come:

Know ye, that, whereas Christopher Dexter, yeoman, and Edward Dexter, mariner, both of Providence, in the county of Providence, commenced

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an action of partition against Joseph Dexter, of said Providence, gentleman, (an infant,) at an inferior court of common pleas, held at Providence, within and for the county of Providence, on the third Tuesday of June last, for partition and division of one tract of land, situate in said Providence, containing about two hundred and eleven acres, consisting partly of wood land and partly of meadow land; and, also, of one other tract of land, situated in Gloucester, in said county, consisting of wood land, containing one hundred and eight acres, butted and bounded as followeth: westerly, on the small lots called the head lots, and lieth a little northward of a lot laid out to me, John Smith, which aforesaid one hundred and eight acres was laid out to Stephen Dexter by Elisha Knowlton, surveyor, as by a return thereof may more fully appear. At which court judgment was rendered that partition be made of the premises, and that sixty acres of the first mentioned tract of land be set off and assigned to the said Joseph Dexter, sixty acres thereof to the said Christopher Dexter, and the remaining part thereof, being about ninety acres, and also the aforesaid tract of land situate in Gloucester, aforesaid, containing one hundred and eight acres, be set off and assigned to the said Edward Dexter. On which judgment a writ of partition was issued forth, directing and commanding the sheriff of the county of Providence, in his own proper person, to go to the lands and premises aforesaid, and that he, by the oaths of twelve lawful men of his county, make partition thereof between the parties by setting off and assigning to them their respective proportions as aforesaid, in the same, in severalty, (having no greater regard to the elder than to the younger.) In pursuance of said writ of partition, and in obedience thereto, we, Allin Brown, of Providence aforesaid, Esq., sheriff of the county aforesaid, and Uriah Mowry, Ananias Mowry, Benjamin Smith, Rufus Smith, John Smith, jr., Ezekiel Smith, Jonathan Phettiplace, Benjamin Phettiplace, Benjamin Brown, Hosea Steere, Enos Eddy, and Joseph Ross, being the jurors returned by the sheriff, approved by the parties, and engaged according to law, having come to each of the premises aforesaid, having respect to the true value thereof, do make partition and division of said premises in manner and form following, to wit: about sixty acres of the first mentioned tract, being butted and bounded as followeth: northerly on a ditch running through the meadow and upland to the highway, then ranging with said highway southeasterly to the river, then to range with the river to the first mentioned bounds, we set off and divided unto the said Joseph Dexter: sixty acres thereof, butted and bounded as followeth: beginning at the river at the end of said ditch, running westerly through said meadow and upland to Peter Randall's land, then to run northeasterly to a pine tree, then easterly to a white oak tree, then southerly to the corner of John Powers's land, then easterly to said river, then to range with the river to the first mentioned bounds, we do set off and divide unto the said Christopher Dexter: and the remaining part thereof, being about ninety acres, butted and bounded as followeth: beginning at the southeast corner of Cornelius Easton's land, then westerly to the river, then to range with the river to Dexter's bridge, then to range with the highway till it meets Dexter's brook, then northerly, to range with the county road, to the first mentioned bounds: the other of said tracts bounded at the end of said line dividing the meadow and the upland, then westerly to Peter Randall's land, then southerly to range with Peter Randall's land till it meets with his west line, then easterly to the road, then northerly with said road to the first mentioned bounds, we set off and divided unto the

then westerly to the river, then to range with the river to Dexter's bridge, then to range with the highway till it meets with Dexter's brook, then northerly, to range with the county road to the first mentioned bounds. The other of said tracts, bounded at the end of said line dividing the meadow and the upland, then westerly to Peter Randall's land, then southerly to range with Peter Randall's land till it meets with his west line, then easterly to the road, then northerly with said road to the first mentioned bounds, appertains to the plaintiff Edward; as also one other tract of land, situate in Gloucester, in said colony, consisting of wood land, containing one hundred and eight acres, being butted and bounded as followeth: westerly on the small lots called the head lots, and lieth a little northward of a lot laid out to Mr. John Smith, which aforesaid one hundred and eight acres was laid out to the aforesaid Stephen Dexter by Elisha Knowlton, surveyor, as by a return thereof may more fully appear, and which appertains to the plaintiff Edward: which aforesaid premises the plaintiffs and defendant do hold together undivided and in common. When and where judgment was rendered, by the consideration of the judges of our said court, that partition be made of said premises, as the plaintiffs have demanded, that they, the plaintiffs and defendant, may hold and enjoy their respective proportions as aforesaid in the same in severalty for ever; and that the said plaintiffs recover and have of the defendants their costs of suit, taxed at £24 2*s*. 4*d*. We command you, therefore, that, in your proper person, you go to the lands and premises aforedescribed, and that you, by the oaths of twelve lawful men of your county, make partition thereof between the parties, by setting off and assigning unto the said Joseph Dexter the aforesaid sixty acres, described as aforesaid, unto the said Christopher Dexter the aforesaid sixty acres, described as aforesaid, and unto the said Edward Dexter the other and remaining one hundred and ninety-eight acres, described as aforesaid, having no greater regard to the elder than to the younger; and that of the goods and chattels of the said Joseph Dexter, within your precinct, you execute and levy the aforesaid sum of twenty-four pounds two shillings and four pence, current money of our said colony, old tenor, together with fourteen shillings for this execution, and the return thereof, as also the lawful fees that shall be due for serving thereof, and therewith satisfy and pay the aforesaid Christopher Dexter and Edward Dexter; and for want of sufficient estate of the said Joseph Dexter to be by you found, to satisfy and pay the same as aforesaid, we command you to take the body of the said Joseph Dexter into your custody, and him safely secure in our jail in Providence, in our said county of Providence, till that he satisfy and pay the aforesaid Christopher Dexter and Edward Dexter the aforesaid sum, or that he by them therefrom discharged. Hereof you are not to fail, but make true return to our next inferior court of common pleas, to be holden at Providence, within and for our said county of Providence, on the third Tuesday of December instant, how you serve this writ. Witness Daniel Jenckes, Esq., at Providence, this first day of December, in the thirty-fourth of our reign, Anno Domini 1760.

NICHOLAS BROWN, *Clerk.*

PARTITION.

To all persons to whom this writing indented may come:

Know ye, that, whereas Christopher Dexter, yeoman, and Edward Dexter, mariner, both of Providence, in the county of Providence, commenced

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an action of partition against Joseph Dexter, of said Providence, gentleman, (an infant,) at an inferior court of common pleas, held at Providence, within and for the county of Providence, on the third Tuesday of June last, for partition and division of one tract of land, situate in said Providence, containing about two hundred and eleven acres, consisting partly of wood land and partly of meadow land; and, also, of one other tract of land, situated in Gloucester, in said county, consisting of wood land, containing one hundred and eight acres, butted and bounded as followeth: westerly, on the small lots called the head lots, and lieth a little northward of a lot laid out to me, John Smith, which aforesaid one hundred and eight acres was laid out to Stephen Dexter by Elisha Knowlton, surveyor, as by a return thereof may more fully appear. At which court judgment was rendered that partition be made of the premises, and that sixty acres of the first mentioned tract of land be set off and assigned to the said Joseph Dexter, sixty acres thereof to the said Christopher Dexter, and the remaining part thereof, being about ninety acres, and also the aforesaid tract of land situate in Gloucester, aforesaid, containing one hundred and eight acres, be set off and assigned to the said Edward Dexter. On which judgment a writ of partition was issued forth, directing and commanding the sheriff of the county of Providence, in his own proper person, to go to the lands and premises aforesaid, and that he, by the oaths of twelve lawful men of his county, make partition thereof between the parties by setting off and assigning to them their respective proportions as aforesaid, in the same, in severalty, (having no greater regard to the elder than to the younger.) In pursuance of said writ of partition, and in obedience thereto, we, Allin Brown, of Providence aforesaid, Esq., sheriff of the county aforesaid, and Uriah Mowry, Ananias Mowry, Benjamin Smith, Rufus Smith, John Smith, jr., Ezekiel Smith, Jonathan Phettiplace, Benjamin Phettiplace, Benjamin Brown, Hosea Steere, Enos Eddy, and Joseph Ross, being the jurors returned by the sheriff, approved by the parties, and engaged according to law, having come to each of the premises aforesaid, having respect to the true value thereof, do make partition and division of said premises in manner and form following, to wit: about sixty acres of the first mentioned tract, being butted and bounded as followeth: northerly on a ditch running through the meadow and upland to the highway, then ranging with said highway southeasterly to the river, then to range with the river to the first mentioned bounds, we set off and divided unto the said Joseph Dexter: sixty acres thereof, butted and bounded as followeth: beginning at the river at the end of said ditch, running westerly through said meadow and upland to Peter Randall's land, then to run northeasterly to a pine tree, then easterly to a white oak tree, then southerly to the corner of John Powers's land, then easterly to said river, then to range with the river to the first mentioned bounds, we do set off and divide unto the said Christopher Dexter: and the remaining part thereof, being about ninety acres, butted and bounded as followeth: beginning at the southeast corner of Cornelius Easton's land, then westerly to the river, then to range with the river to Dexter's bridge, then to range with the highway till it meets Dexter's brook, then northerly, to range with the county road, to the first mentioned bounds: the other of said tracts bounded at the end of said line dividing the meadow and the upland, then westerly to Peter Randall's land, then southerly to range with Peter Randall's land till it meets with his west line, then easterly to the road, then northerly with said road to the first mentioned bounds, we set off and divided unto the

said Edward Dexter; as also one other tract of land, situate in Gloucester aforesaid, consisting of woodland, containing one hundred and eight acres, being butted and bounded as aforementioned, and as described in said writ, we do set off and divide unto the said Edward Dexter. And for the better certainty of the distinction of the several lines agreed upon by us in the division of the aforesaid lands, have caused the several plats thereof,* drawn by Richard Steere, Esq., surveyor, and subscribed by him, to be hereunto affixed.

In witness whereof, we have hereunto set our hands and seals, this fifteenth day of December, in the thirty-fourth year of his Majesty's reign, Anno Domini 1760.

Allin Brown,	seal.	Jonathan his + mark. Phettiplace,	seal.
Uriah Mowry,	seal.	Benjamin Phettiplace,	seal.
Ananias Mowry,	seal.	Benjamin Brown,	seal.
Benjamin Smith,	seal.	Hosea Steere,	seal.
Rufus Smith,	seal.	Enos Eddy,	seal.
John Smith, Jr.,	seal.	Joseph Ross,	seal.
Ezekiel Smith,	seal.		

SHERIFF'S RETURN.

Providence, *December* 15, 1760.

By virtue of the writ of our lord the King, to me directed, and of the indenture of partition hereto annexed, I, Allin Brown, Esq., sheriff of the county aforesaid, on the 15th day of December, A. D. 1760, taking with me Uriah Mowry, Ananias Mowry, Benjamin Smith, Rufus Smith, John Smith, jr., Ezekiel Smith, Jonathan Phettiplace, Benjamin Phettiplace, Benjamin Brown, Hosea Steere, Enos Eddy, and Joseph Ross, twelve free and lawful men of my county, inhabitants of the towns of Smithfield and Gloucester, went to the lands and premises mentioned and expressed in said writ, and to each of them and there by these oaths, (having respect to the true value of said premises,) the said lands I caused to be divided into the several parts, according to said writ, to wit, the tract of land first mentioned and described in the aforesaid writ, being divided according to the aforesaid indenture of partition, I, the aforesaid sheriff, on the 15th December, 1760, sixty acres thereof have assigned and delivered unto the said Joseph Dexter, sixty acres thereof unto the said Christopher Dexter, and the remaining part of said tract, being about ninety acres, as also one other tract of land, situated in Gloucester, in said county, containing one hundred and eight acres, mentioned and described in said writ, I have assigned and delivered unto he said Edward Dexter; and for the greater certainty of the distinction of the rights of the parties to the respective parts of the said tracts, have caused the plats of the same to be annexed to the indenture of partition, with the names of the parties on the parts of the tracts of land to which they respectively appertain to. In witness whereof, I have hereunto set my hand and seal, with the seals of the jurors to the indenture of partition being also affixed, the day and year aforesaid.

ALLIN BROWN.

* See original.

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I acknowledge to have received from Allin Brown, Esq., possession of the lands and premises assigned to the said Joseph Dexter, in pursuance of the aforesaid writ. Witness my hand and seal, the fifteenth December, 1760.

CORNELIUS EASTON, [SEAL.]
Guardian to Joseph Dexter.

I acknowledge to have received from Allin Brown, Esq., possession of the lands and premises assigned to me in pursuance of the aforesaid writ. Witness my hand and seal, the 15th December, 1760.

CHRISTOPHER DEXTER, [SEAL.]

I acknowledge to have received from Allin Brown, Esq., possession of the lands and premises assigned to the said Edward in pursuance of the aforesaid writ. Witness my hand and seal. the fifteenth December, 1760.

JEREMIAH DEXTER, [SEAL.]
Attorney of Edward Dexter.

RHODE ISLAND DISTRICT, SC.—*Circuit Court United States, June term,* 1828.

I certify the preceding to be true copies of the original papers in the case of Christopher Dexter against Joseph Dexter, brought into this court on the duces tecum aforesaid, duly examined and compared by me.

BENJAMIN COWELL, *Clerk.*

JUDGMENT ON THE PRECEDING CASE.

At an inferior court of common pleas, begun and held at Providence, within and for the county of Providence, in the English colony of Rhode Island and Providence Plantations, in New England, in America, on the third Tuesday of June, in the thirty-third year of his Majesty's reign, George the Second, by the grace of God King of Great Britain, and so forth, Anno Domini 1760.

Christopher Dexter, yeoman, and Edward Dexter, mariner, both of Providence, in the county of Providence, plaintiffs, and Joseph Dexter, of said Providence, gentleman, (an infant,) defendant, in an action of partition, that he, the defendant, justly and without delay, partition make with the plaintiffs of one tract of land, situate in said Providence, containing about two hundred and eleven acres, consisting partly of woodland, and partly of meadow land, sixty acres whereof being butted and bounded as followeth: northerly on a ditch running through the meadow and upland to the highway, then ranging with said highway southeasterly to the river, then to range with the river to the first mentioned bounds, appertains and belongs to the defendant; sixty acres whereof, butted and bounded as followeth: beginning at the river at the end of said ditch, running westerly through said meadow and upland to Peter Randall's land, then to run northeasterly to a pine tree, then easterly to a white oak tree, then southerly to the corner of John Powers's land, then easterly to said river, then to range with the river to the first mentioned bounds, appertains to the plaintiff Christopher; and the remaining part thereof, being about ninety acres, and butted and bounded as followeth: beginning at the southeast corner of Cornelius Easton's, then westerly to the river, then to range with the river to Dexter's bridge, then to range with the highway till it meets with Dexter's brook, then northerly to range with the county road to the first mentioned bounds; the other of said tracts, bounded at the end of said line dividing the meadow and the upland, then westerly to Peter Randall's land, then southerly to range with Peter

Randall's land, till it meets with his west line, then easterly to the road, then northerly with said road to the first mentioned bounds, appertains to the plaintiff Edward; as also one other tract of land, situate on Gloucester, in said county, consisting of wood land, containing one hundred and eight acres, butted and bounded as followeth: westerly on the small lots called the head lots, and lieth a little to the northward of a lot laid out to Mr. John Smith, which aforesaid one hundred and eight acres was laid out to the aforesaid Stephen Dexter by Elisha Knowlton, surveyor, as by a return thereof may appear, and which appertains to the plaintiff Edward: which aforesaid premises the plaintiffs and defendant do hold together, undivided and in common, partition whereof by law ought to be made, that the plaintiffs and defendant may hold their respective proportions as aforesaid in the same in severalty for ever. And whereupon the plaintiffs complain and say that Stephen Dexter, late of Providence aforesaid, yeoman, deceased, was in his lifetime seized of the premises aforesaid in fee, and being thereof so seized, on or about the twenty-eight day of December, A. D. 1758, for the consideration of the love and affection he had for them, the plaintiffs and defendant, and for their better support and advancement in life, did make a feoffment of, and did thereby give, enfeoff, and convey the premises aforesaid, in manner following, to wit: unto the said Joseph, his heirs and assigns for ever, the aforesaid sixty acres, described as aforesaid; and the aforesaid sixty acres unto the plaintiff Christopher, to him, his heirs and assigns for ever; and the other one hundred and ninety eight acres as aforesaid to the plaintiff Edward, his heirs and assigns for ever; and at the said time delivered seizin and possession of the whole of the said premises unto the plaintiff and defendant; whereupon they, the plaintiffs and defendant, became seized of the said premises in fee, and held the same in common. Now, the plaintiffs say that by law partition ought to be made of said premises, that they, the plaintiffs and defendant, may hold and enjoy their respective proportions as aforesaid in the same in severalty for ever. Yet the defendant, though often requested to make partition of the premises as aforesaid with the plaintiffs, at all times hath refused, and the defendant doth still refuse, to the damage of the plaintiffs five thousand pounds current money; and the defendant, by his guardian, Cornelius Easton, came into court and defended the force and injury when, &c., and for plea said that he doth not hold the lands in common with the plaintiffs, as they declare, and for this puts himself upon his country; which said Cornelius Easton (grandfather to the defendant,) the court appointed guardian to the defendant, and he accepted the trust, in the room of Thomas Lapham, Esq., the former guardian, who refused to act any longer as guardian. And now the case was pleaded and committed to the jury, who gave this verdict, to wit: "We find that partition be made, as the plaintiffs in their declaration have demanded;" which verdict was accepted. It is therefore considered by the court that partition be made of said premises, as the plaintiffs have demanded, that they, the plaintiffs and defendant, may hold and enjoy their respective proportions as aforesaid in the same in severalty for ever; and that the said plaintiffs recover and have of the defendant their cost of suit, taxed at £24 2*s.* 4*d.*; whereupon a writ of partition was issued, directed to the sheriff of the county of Providence, who came afterwards into court, to wit, at the term of December, 1760, and returned that on the fifteenth day of December, 1760, he caused the said lands to be divided according to the indenture of partition and plan annexed to said return, and had assigned the premises so divided unto the several persons mentioned in said writ, as by the said

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indenture, return, and plan appeareth. It is therefore considered by the court that the partition so made be firm and stable, and that the plaintiffs and defendant hold and enjoy the parts so set off and assigned in severalty for ever.

STATE OF RHODE ISLAND, &c. } *Clerk's office, court of common pleas,*
Providence, sc. } *county of Providence, June 13th, A. D.* 1828.

I certify that the three preceding pages contain a true copy of the record of judgment, and of the proceedings consequent thereon, in the action of partition in which Christopher Dexter, yeoman, and Edward Dexter, mariner, both of Providence, in the county of Providence, were plaintiffs, and Joseph Dexter, of said Providence, (an infant,) was defendant, as appears of record in this office.

Attest,

WILLIAM R. WATSON,
Clerk of the Court of Common Pleas
For the county of Providence.

WRIT.

CHRISTOPHER DEXTER AND JEREMIAH DEXTER *vs.* JOSEPH DEXTER.

PROVIDENCE, sc.—*George the Second, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c., to the sheriff of our county of Providence, or to his deputy, greeting:*

We command you to summon Joseph Dexter, of Providence, in our county of Providence, gentleman, an infant, (if he may be found in your precinct,) to answer the complaint of Christopher Dexter and Jeremiah Dexter, yeomen, and Edward Dexter, mariner, all of said Providence, at the next inferior court of common pleas, to be holden at Providence, within and for our said county of Providence, on the third Tuesday of June next ensuing the date hereof, in an action of partition, that he justly and without delay partition make with the petitioners of one tract of land containing about eighty acres, forty acres whereof appertains unto the petitioner Christopher, the other part whereof appertains unto the petitioner Jeremiah; also, one tract of land, containing about eleven acres, appertaining unto the said Edward; also one thatch bed containing about one acre and a half, two third parts whereof belong unto the petitioners Christopher and Jeremiah, the other part whereof appertains unto the defendant; all of which tracts, as aforesaid, situate lying and being in said Providence, the petitioners and defendant hold together, undivided and in common, partition whereof by law ought to be made, as by declaration to be filed in court will be fully set forth, the not making of which partition is to the damage of the plaintiff five thousand pounds, current money of New England.

Hereof fail not, and make true return of this writ, with your doings thereon.

Witness Daniel Jenckes, Esq., at Providence, this twenty-first day of May, in the thirty-third year of our reign, A. D. 1760.

NICHOLAS BROWN, *Clerk.*

Summoned the within defendant as commanded.

ALLIN BROWN, *Sheriff.*

Fees, 17*s.*

DECLARATION.

PROVIDENCE, SC.—*To the honorable inferior court of common pleas to be held at Providence, in and for the county of Providence, on the third Tuesday in June, A. D.* 1760.

Christopher Dexter and Jeremiah Dexter, yeomen, and Edward Dexter, mariner, all of said Providence, complain against Joseph Dexter, of Providence, in the county of Providence, gentleman, an infant, legally summoned, in an action of partition, that he, justly and without delay, partition make with the petitioners of one tract of land containing about eighty acres, situated in said Providence, forty acres whereof, butted and bounded as followeth: westerly on a highway, northerly on the forty acres hereafter described to Jeremiah Dexter, easterly on land of John Comstock, and southerly to extend on said tract till it makes forty acres, appertains to the petitioner Christopher; the other part, being about forty acres, butted and bounded as followeth: northerly and westerly on highways, easterly on land of John Comstock, and to extend southerly on said tract till it makes forty acres, appertains to the petitioner Jeremiah; also, one other tract of land, containing about eleven acres, situate in said Providence, being butted and bounded as followeth: westerly on land of John Owens, southerly on land of William Clarke, easterly on land of Stephen Sweet, and northerly on said Owens's land, appertains to the petitioner Edward; also, one thatch bed, containing about one acre and a half, situate in said Providence, lying on Wahasquatucket river, at a place known by the name of Windsor's Meadow, one third part whereof appertains to the petitioner Christopher, one third part whereof appertains to the petitioner Jeremiah, and the other third part thereof to the defendant; which aforesaid premises the petitioners and defendant do hold together, undivided and in common, in fee, partition whereof by law ought to be made, that the petitioners and defendant may hold their respective proportions as aforesaid in the same in severalty for ever. And whereupon, the petitioners complain and say that Stephen Dexter, late of Providence aforesaid, yeoman, deceased, was in his lifetime seized of the premises aforesaid in fee, and being thereof so seized, on or about the twenty-eighth day of December, A. D. 1758, for the consideration of the love and affection he had for them, the petitioners and defendants, and for their better support and advancement in life, did make a feoffment, and did thereby give, enfeoff, and convey the premises in manner following, to wit: unto the said Christopher, his heirs and assigns for ever, the aforesaid forty acres; to the said Edward the aforesaid eleven acres to him, his heirs and assigns for ever; and to the said Christopher, Jeremiah, and the defendant, the aforesaid thatch bed, to them, their heirs and assigns for ever; and at the said time delivered seisin and possession of the whole of said premises unto the petitioners and defendant. Whereupon, they, the petitioners and defendant, at the time aforesaid, became seized of the premises aforesaid in fee, and held the same in common. Now the petitioners say, that by law partition ought to be made of said premises, that they, the petitioners and defendant, may hold and enjoy their respective proportions aforesaid, in the same, in severalty for ever. Yet the defendant, although often requested to make partition of the premises aforesaid with the petitioners, hath at all times refused, and the defendant doth still refuse, to the damage of the petitioner five thousand pounds, current money of New England, as

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laid in his writ, dated the twenty-first day of May, in the thirty-third year of his Majesty's reign, A. D. 1760, and hereon they sue.

ANDREWS, *for the petitioners.*

And the defendant, by Cornelius Easton, his guardian, comes into court and defends the force and injury when, &c., and for plea saith that he doth not hold the land in common with the plaintiffs, as they declare; and of this he puts himself upon the country, by

SILAS DOWNER, *attorney for the guardian.*

VERDICT.

We find that partition be made as the plaintiffs, in their declaration, have demanded.

EXECUTION IN PARTITION.

PROVIDENCE, sct.—*George the II., by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, and so forth, to the Sheriff of our county of Providence, in our colony of Rhode Island, greeting:*

Whereas Christopher Dexter and Jeremiah Dexter, yeomen, and Edward Dexter, mariner, all of Providence, in the county of Providence, commenced an action of partition against Joseph Dexter, of said Providence, gentleman, (an infant,) at an inferior court of common pleas, held at Providence, within and for our said county of Providence, on the third Tuesday of June last past, that he, the said Joseph Dexter, justly and without delay, partition make with the plaintiffs of one tract of land containing about eighty acres, situated in said Providence, forty acres thereof, butted and bounded as followeth: westerly on a highway, northerly on the forty acres hereafter described to Jeremiah Dexter, easterly on land of John Comstock, and southerly to extend on said tract till it makes forty acres, appertains to the plaintiff Christopher Dexter; the other part, being about forty acres, butted and bounded as followeth: northerly and westerly on highways, easterly on land of John Comstock, and to extend southerly on the said tract of land till it makes forty acres, appertains to the plaintiff Jeremiah; also one other tract of land, containing about eleven acres, situate in said Providence, being butted and bounded as followeth: westerly on land of John Owens, southerly on land of William Clark, easterly on land of Stephen Sweet, and northerly on said Owens's land, appertains to the plaintiff Edward; also one thatch bed, containing about one acre and a half, situated in said Providence, lying on Wanasquatucket river, at a place known by the name of Winsor's Meadow, one third part whereof appertains to the petitioner Christopher, one third part whereof appertains to the plaintiff Jeremiah, and the other third part thereof to the defendant; which aforesaid premises the plaintiffs and defendant do hold together undivided and in common in fee; when and where judgment was rendered by the consideration of the judges of our said court, that partition be made of said premises as the plaintiffs have demanded, that they, the plaintiffs and defendant, may hold and enjoy their respective proportions as aforesaid in the same in severalty for ever; and that the said plaintiffs recover and have of the defendant their costs of suit, taxed at 27*l.* 14*s.* 4*d.*

We command you, therefore, that in your proper person you go to the lands and premises aforedescribed, and that you, by the oaths of twelve

lawful men of your county, make partition thereof between the parties, by setting off and assigning unto the said Christopher Dexter the aforesaid forty acres, unto the said Jeremiah Dexter the aforesaid forty acres, unto the said Edward Dexter the aforesaid eleven acres, unto the said Christopher Dexter one third part of the aforesaid thatch bed, unto the said Jeremiah Dexter one third part thereof, and unto the said Joseph Dexter the other third part thereof, having no greater regard to the elder than to the younger. We further command you, that of the goods and chattels of the said Joseph Dexter within your precinct, you execute and levy the aforesaid sum of twenty-seven pounds fourteen shillings and four pence, current money, with fourteen shillings for this execution and the return thereof, as also the lawful fees that shall be due for the serving thereof, and therewith satisfy and pay the aforesaid Christopher, Jeremiah, and Edward; and for want of sufficient estate of said Joseph to be by you found to satisfy and pay the same as aforesaid, we command you to take the body of said Joseph into your custody, and him safely secure in our jail in Providence, in our county of Providence, till that he satisfy and pay the aforesaid Christopher, Jeremiah, and Edward, the aforesaid sum, or that he be by them therefrom discharged. Hereof you are not to fail, but to make true return to our next inferior court of common pleas, to be holden at Providence, within and for our said county of Providence, on the third Tuesday of December instant, how you serve this writ. Witness Daniel Jenckes, Esquire, at Providence, this eighth day of December, in the thirty-fourth year of our reign, Anno Domini seventeen hundred and sixty.

NICHO. BROWN, *Clerk.*

RETURN IN PARTITION.

To all persons to whom this writing may come:

Know ye, that, whereas Christopher Dexter and Jeremiah Dexter, yeomen, and Edward Dexter, mariner, all of Providence, in the county of Providence, commenced an action of partition against Joseph Dexter, of said Providence, gentleman, an infant, at an inferior court of common pleas, held at Providence, within and for the county of Providence, on the third Tuesday of June last, for partition and division of one tract of land, containing about eighty acres, situated in Providence aforesaid, one other tract of land, containing about eleven acres, situate in said Providence, being butted and bounded as followeth: westerly on land of John Owens, southerly on land of William Clark, easterly on land of Stephen Sweat, and northerly on said Owens's land, and one thatch bed, containing about one acre and a half, situate in Providence aforesaid, lying on Wanasquatucket river, at a place known by the name of Winsor's Meadow; at which court judgment was rendered, that forty acres of the first mentioned tract, butted and bounded as followeth: westerly on a highway, northerly on the forty acres hereafter described to Jeremiah Dexter, easterly on land of John Comstock, and southerly to extend on said tract till it makes forty acres, be set off and assigned unto the said Christopher Dexter; and the other part of said tract, being about forty acres, butted and bounded as followeth: northerly and westerly on highways, easterly on land of John Comstock, and to extend southerly on said tract till it makes forty acres, be set off and assigned to the said Jeremiah Dexter, the other tract of land be set off and assigned to the said Edward Dexter, and one third part of the aforesaid thatch bed be set off

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and assigned unto the said Christopher Dexter, one third part thereof unto the said Jeremiah Dexter, and the other third part thereof unto the said Joseph Dexter. On which judgment a writ of partition was issued forth, directing and commanding the sheriff of the county of Providence, in his proper person, to go to the lands and premises aforedescribed, and that he, by the oaths of twelve lawful men of his county, make partition thereof between the parties, by setting off and assigning unto the said Christopher Dexter the aforesaid forty acres, unto the said Jeremiah Dexter the aforesaid forty acres, unto the said Edward Dexter the aforesaid eleven acres, and unto the said Christopher Dexter one third part of the aforesaid thatch bed, and unto the said Jeremiah Dexter one third part thereof, and unto the said Joseph Dexter the other third part thereof, having no greater regard to the elder than to the younger.

In pursuance of said writ of partition, and in obedience thereto, we, Allin Brown, of Providence aforesaid, Esquire, sheriff of the county aforesaid, and Uriah Mowry, Ananias Mowry, Benjamin Smith, Rufus Smith, John Smith, jr., Ezekiel Smith, Jonathan Phettiplace, Benjamin Phettiplace, Benjamin Brown, Hosea Steere, Enos Eddy, and Joseph Ross, being the jurors returned by the sheriff aforesaid, approved by the parties, and engaged according to law, having come to each and every of the premises aforesaid, having a respect to the true value thereof, we, the said jurors, make partition and division of said premises in manner and form following, to wit: forty acres of the first mentioned tract, butted and bounded as followeth: westerly on a highway, northerly on the forty acres hereafter divided to Jeremiah Dexter, easterly on land of John Comstock, and southerly to extend to the southmost bounds of said tract, we set off and divide unto the said Christopher Dexter: the other part of said tract, being forty acres, justly butted and bounded as followeth: northerly and westerly on highlands, easterly on land of John Comstock, and to extend southerly on said tract till it makes forty acres, we set off and divide unto the said Jeremiah Dexter: the other tract of land, containing about eleven acres, butted and bounded as aforementioned, and as described in said writ, we set off unto the said Edward Dexter; and the aforesaid thatch bed, we make partition of and divide in manner and form following, to wit: we divide the same into three equal parts, the same being now in common with others, and not severed; and set off the same unto the persons having a right thereto by said writ. And for the better certainty of the distinction of the several lines agreed upon by us in the division of the aforesaid lands and premises, we have caused the several plats* thereof, drawn by Richard Steere, Esq., surveyor, and subscribed by him, to be hereunto affixed. In witness whereof, we have hereunto set our hands and seals, this fifteenth day of December, in the 34th year of his Majesty's reign, Anno Domini 1760.

John Smith,	[L. S.]	Allin Brown,	[L. S.]
Ezekiel Smith,	[L. S.]	Uriah Mowry,	[L. S.]
Jonathan Phettiplace,	[L. S.]	Ananias Mowry,	[L. S.]
Benjamin Phettiplace,	[L. S.]	Benjamin Smith,	[L. S.]
Benjamin Brown,	[L. S.]	Hosea Steere,	[L. S.]
Rufus Smith,	[L. S.]	Enos Eddy,	[L. S.]
Joseph Ross,	[L. S.]		

* See original.

SHERIFF'S RETURN.

PROVIDENCE, *December* 15, 1760.

By virtue of the writ of our lord the King, to me directed, and of the indenture of partition hereto annexed, I, Allin Brown, Esq., sheriff of the county of Providence, on the fifteenth day of December, 1760, taking with me Uriah Mowry, Ananias Mowry, Benjamin Smith, Rufus Smith, John Smith, jr., Ezekiel Smith, Jonathan Phettiplace, Benjamin Phettiplace, Benjamin Brown, Hosea Steere, Enos Eddy, and Joseph Ross, twelve free and lawful men of my county, inhabitants of the towns of Smithfield and Gloucester, in my own person went to the lands and premises mentioned and expressed in the said writ, and to each of them and there by their oaths, (having respect to the true value of said premises, with the appurtenances,) the said lands I caused to be divided into the several parts according to said writ, that is to say, the tract of land first mentioned and described in the aforesaid writ, being divided according to the aforesaid indenture of partition, I, the aforesaid sheriff, on the 15th day of December, A. D. 1760, the south part thereof, being for and in lieu of forty acres thereof, have assigned and delivered to the said Christopher Dexter, and the remaining part thereof, being just forty acres, unto the said Jeremiah Dexter; the other of said tracts, being set off by the aforesaid indenture, have assigned and delivered unto the said Edward Dexter; and the aforesaid thatch bed, being divided according to the aforesaid indenture, the third part thereof have assigned and delivered unto the said Christopher Dexter, one third part thereof unto the said Jeremiah Dexter, and the remaining part thereof unto the said Joseph Dexter; and for the greater certainty of the distinction of the rights of the parties to the respective parts of said lands, have caused the plats* of the same to be annexed to the indenture of partition, with the names of the parties on the parts of the said tracts of land to which they respectively appertain to. In witness whereof, I have hereunto set my hand and seal, with the seals of the jurors to the indenture of partition being also affixed, the day and year aforesaid.

ALLIN BROWN. [L. S.]

I acknowledge to have received from Allin Brown, Esq., possession of the lands and premises assigned to me in pursuance of the aforesaid writ. Witness my hand and seal, the fifteenth day of December, 1760.

CHRISTOPHER DEXTER. [L. S.]

I acknowledge to have received from Allin Brown, Esq., possession of the land and premises assigned to me in pursuance of the aforesaid writ. Witness my hand and seal, the fifteenth day of December. 1760.

JEREMIAH DEXTER. [L. S.]

I acknowledge to have received from Allin Brown, Esq., possession of the lands and premises assigned to me in pursuance of the aforesaid writ. Witness my hand and seal, the fifteenth December, 1760.

JEREMIAH DEXTER, [L. S.]
For Edward Dexter.

I acknowledge to have received from Allin Brown, Esq., possession of the lands and premises assigned to the said Joseph Dexter in pursuance of

* See original.

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the aforesaid writ. Witness my hand and seal, the fifteenth day of Decem ber, 1760.

CORNELIUS EASTON, [L. S.]
Guardian to Joseph Dexter.

JUDGMENT OF COURT ON THE PRECEDING.

At an inferior court of common pleas, begun and held at Providence, within and for the county of Providence, in the English colony of Rhode Island and Providence Plantations, in New England, in America, on the 3d Tuesday of June, in the thirty-third year of his Majesty's reign, George the Second, by the grace of God King of Great Britain, and so forth, Anno Domini 1760.

Christopher Dexter and Jeremiah Dexter, yeomen, and Edward Dexter, mariner, all of Providence, in the county of Providence, plaintiffs, Joseph Dexter, of said Providence, (an infant,) defendant, in an action of partition, that he justly, and without delay, partition make with the plaintiffs of one tract of land, containing about eighty acres, situate in said Providence, forty acres whereof, butted and bounded as followeth: westerly on a high way, northerly on the forty acres hereafter described to Jeremiah Dexter, easterly on land of John Comstock, and southerly to extend on said tract till it makes forty acres, appertains to the plaintiff Christopher; the other part, being about forty acres, butted and bounded as followeth: northerly and westerly on highways, easterly on land of John Comstock, and to extend southerly on said tract till it makes forty acres, appertains to the plaintiff Jeremiah; also, one other tract of land, containing about eleven acres, situate in said Providence, being butted and bounded as followeth: westerly on land of John Owens, southerly on land of William Clark, easterly on land of Stephen Sweat, and northerly on said Owens's land, appertains unto the plaintiff Edward; also, one thatch bed, containing about one acre and a half, situate in said Providence, lying on Wanasquatucket river, at a place known by the name of Winsor's Meadow, one third whereof appertains to the plaintiff Christopher, one third whereof appertains to the plaintiff Jeremiah, and the other third part whereof to the defendant; which aforesaid premises, the plaintiffs do hold together undivided and in common in fee; partition whereof, by law, ought to be made, that the plaintiffs and defendants may hold their respective proportions as aforesaid in the same in severalty for ever. And whereupon the plaintiffs complain and say that Stephen Dexter, late of Providence aforesaid, yeoman, deceased, was, in his lifetime, seized of the premises aforesaid in fee, and being thereof so seized, on or about the twenty-eighth day of December, A. D. 1758, for the consideration of the love and affection he had for them, the plaintiffs and defendant, and for their better support and advancement in life, did make a feoffment of, and did thereby give, enfeoff, and convey the premises aforesaid, in manner following, to wit: unto the said Christopher, his heirs and assigns for ever, the aforesaid forty acres; to the said Jeremiah, his heirs and assigns for ever, the aforesaid forty acres; to the said Edward, the said eleven acres, to him, his heirs and assigns for ever; and to the said Christopher, Jeremiah, and the defendant, the aforesaid thatch bed, to them, their heirs and assigns for ever; and, at said time, delivered seisin and possession of the whole of said premises unto the plaintiffs and defendant. Whereupon, they, the plaintiffs and defendant, became seized of the premises aforesaid in fee,

and held the same in common. Now, the plaintiffs say, that, by law, partition ought to be made of said premises, that they, the plaintiffs and defendant, may hold and enjoy their respective proportions as aforesaid in the same, in severalty, for ever. Yet the defendant, though often requested to make partition of the premises aforesaid with the plaintiffs, hath at all times refused, and the defendant doth still refuse, to the damage of the plaintiffs five thousand pounds current money. And the defendant, by Cornelius Easton, his guardian, came into court and defended the force and injury, when, &c., and for plea said that he doth not hold the lands in common with the plaintiffs, as they declare, and of this he puts himself on the country; which said Cornelius Easton (grandfather to the defendant) the court appointed guardian to the defendant, and he accepted the trust in the room of Thomas Lapham, Esq., the former guardian, who refused to act as guardian any longer. And now the case was pleaded and committed to the jury, who gave this verdict, to wit: "We find that partition be made as the plaintiffs in their declaration have demanded;" which verdict was accepted. It is, therefore, considered by the court that partition be made of said premises as the plaintiffs have demanded, that they, the plaintiffs and defendant, may hold and enjoy their respective proportions as aforesaid, in the same, in severalty, for ever; and that the plaintiffs recover and have of the defendant their costs of suit, taxed at £27 14s. 4d. Whereupon, a writ of partition was issued, directed to the sheriff of the county of Providence, who came afterwards into court, to wit, at the term of December, 1760, and returned that, on the fifteenth day of December, A. D. 1760, he caused said lands to be divided according to the indenture of partition and plan annexed to said return, and had assigned the premises so divided unto the several persons having a right thereto, according to said indenture, return, and plan annexed.

Therefore, it is considered by the court that the partition so made be firm and stable, and that the plaintiffs and defendant hold and enjoy the parts so set off and assigned in severalty for ever.

STATE OF RHODE ISLAND, &c. } *Clerk's office of the Court of Common*
Providence, sc. } *Pleas for the county of Providence,*
June 13, 1828.

I hereby certify that the three preceding pages contain a true copy of the record of judgment, and of the proceedings consequent thereon, in the action of partition in which Christopher Dexter and Jeremiah Dexter, yeomen, and Edward Dexter, mariner, all of Providence, in the county of Providence, were plaintiffs, and Joseph Dexter, of said Providence, (an infant,) defendant, as appears of record in this office.

Attest, WILLIAM R. WATSON, *Clerk of the Court*
Of Common Pleas, county of Providence.

WRIT.

JEREMIAH DEXTER *vs.* JOSEPH DEXTER.

PROVIDENCE, sc.—*George the Second, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c., to the Sheriff of our county of Providence, or to his deputy, greeting:*

We command you to summon Joseph Dexter, of Providence, in our county of Providence, an infant, gentleman, if he may be found in your precinct,

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to answer the complaint of Jeremiah Dexter, of said Providence, yeoman, at the next inferior court of common pleas, to be holden at Providence, within and for our said county of Providence, on the third Tuesday of June next ensuing the date hereof, in an action of partition, that he, the defendant, justly and without delay, partition make with the petitioners of one certain farm or tract of land, containing about one hundred and ninety-five acres of land, with a dwelling-house, barns, and one shop, thereon standing, and being situate in said Providence aforesaid, one hundred and thirty-five acres whereof, with the dwelling-house, barn, and shop, appertaineth unto the defendant; the other part whereof, being about sixty-five acres, appertaineth to the petitioners; which aforesaid premises the plaintiffs and defendant do hold together undivided and in common; partition whereof by law ought to be made, that the petitioner and defendant may hold their respective proportions as aforesaid, in severalty, as by the declaration to be filed in court will be fully set forth, the not making of which partition is to the damage of the plaintiff thirty thousand pounds, current money of New England. Hereof fail not, and make true return of this writ, with your doings thereon. Witness Daniel Jenckes, Esq., at Providence, this twenty-first of May, in the thirty-third year of our reign, A. D. 1760.

NICHOLAS BROWN, *Clerk.*

Summoned the within named defendant, as commanded.

ALLIN BROWN, *Sheriff.*

Fees, 17*s.*

DECLARATION.

PROVIDENCE, sc.—*To the Honorable Inferior Court of Common Pleas, to be holden at Providence, within and for the county of Providence, on the third Tuesday of June, A. D.* 1760.

Jeremiah Dexter, of Providence, in the county of Providence, yeoman, complains of Joseph Dexter, of Providence aforesaid, an infant, gentleman, legally summoned, in an action of partition, that he, justly and without delay, partition with the plaintiff make of one certain farm or tract of land, containing about one hundred and ninety-five acres, consisting of arable, meadow, wood, and pasture land, with a dwelling-house, barn, and shop, thereon standing, and being situate in Providence aforesaid, one hundred and thirty acres whereof, with the dwelling-house, barn, and shop, butted and bounded as followeth: beginning at the highway southward of the brook, then to run easterly to an elm tree, then extending to another elm tree, then easterly to a walnut tree at the head of the lane, then extending a straight line to three white oak trees standing on the northwest corner of James Brown's land, easterly to a white oak tree, northerly to a stake and heap of stones, westerly, to range with Silvanus Sayles's land, to a highway, then to range to the first mentioned bounds, appertains and belongs to the defendant: the other part thereof, being about sixty-five acres, consisting of arable, meadow, wood, and pasture land, butted and bounded as followeth, to wit: beginning at the highway southward of the brook, then to run easterly to an elm tree, then to extend easterly to another elm tree, then easterly to a walnut tree at the head of the lane, then to run a straight line to three white oak trees in the northwest corner of James Brown's land, southerly to Harrington's lane, then westerly with said line to the burying place, then northerly to

the first mentioned bounds, appertains to the plaintiff; which aforesaid premises the plaintiff and defendant do hold together undivided and in common, in fee, partition whereof by law ought to be made, that the plaintiff and defendant may hold their respective proportions aforesaid in the same in severalty for ever. And whereupon the plaintiff saith, that Stephen Dexter, late of Providence aforesaid, yeoman, deceased, was, in his lifetime, seized of the premises aforesaid in fee, and being thereof so seized, on or about the twenty-eighth of December, A. D. 1758, for the consideration of the love and affection he had for them, the plaintiff and defendant, and for their better support and advancement in life, did make a feoffment of, and did thereby give and convey the premises aforesaid, in manner following, to wit: unto the said Joseph, his heirs and and assigns for ever, the aforesaid one hundred and thirty acres, described as aforesaid, with the buildings thereon standing; the other sixty-five acres as aforesaid unto the plaintiff, his heirs and assigns for ever; and at said time delivered seisin and possession of the whole of said premises unto the plaintiff and defendant. Whereupon, they, the plaintiff and defendant, at the time aforesaid, became seized of the said premises in fee, and held the same in common. Now the plaintiff saith, that by law partition ought to be made of said premises, that they, the plaintiff and defendant, may hold and enjoy their respective proportions as aforesaid in the same in severalty for ever. Yet the defendant, although often requested to make partition of the premises aforesaid with the plaintiff, hath at all times refused, and the defendant doth still refuse, to the damage of the plaintiff thirty thousand pounds, current money of New England, as laid in his writ dated the twenty-first day of May, in the 33d year of his Majesty's reign, A. D. 1760; and thereon he sues, by

ANDREWS, *for the petitioner.*

And the defendant, by Cornelius Easton, his guardian, comes into court and defends, &c., and for plea saith that he doth not hold the lands in common with the petitioner, as he, the petitioner, declares; and of this, &c.

SILAS DOWNER, *attorney for the guardian.*

VERDICT.

We find that partition be made as the plaintiffs in their declaration have demanded.

EXECUTION FOR PARTITION.

PROVIDENCE, sc.—*George the Second, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c., to the sheriff of our county of Providence, in our colony of Rhode Island, greeting:*

Whereas Jeremiah Dexter, of Providence, in the county of Providence, yeoman, commenced an action of partition against Joseph Dexter, of said Providence, (an infant,) gentleman, at an inferior court of common pleas, held at Providence, within and for our said county of Providence, on the third Tuesday of June last, that he, the said Joseph Dexter, justly and without delay, partition make with the plaintiff of one certain farm or tract of land, containing about one hundred and ninety-five acres, consisting of arable, meadow, wood, and pasture land, with a dwelling-house, barn, and shop thereon standing, and being situate in said Providence aforesaid; one hun-

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dred and thirty acres thereof, with the said dwelling-house, barn, and shop, butted and bounded as followeth: beginning at the highway southward of the brook, then to run eastwardly to an elm tree, then extending to another elm tree, then easterly to a walnut tree at the head of the lane, then extending a straight line to three white oak trees standing on the northwest corner of James Brown's land, easterly to a white oak tree, northerly to a stake and heaps of stones, westerly to range with Sylvanus Sayles's land, to a highway, thence to range to the first mentioned bounds, appertains and belongs to the said Joseph Dexter; the other part thereof, being about sixty-five acres, consisting of arable, meadow, wood, and pasture land, butted and bounded as followeth: beginning at the highway southward of the brook, then to run easterly to an elm tree, then to extend easterly to another elm tree, then easterly to a walnut tree at the head of the lane, then to run a straight line to three white oak trees in the northwest corner of James Brown's land, southerly to Herrington's lane, then westerly with said lane to the burying place, then northerly to the first mentioned bounds, appertains to the said Jeremiah Dexter; which aforesaid premises the plaintiff and defendant do hold together, undivided and in common, in fee: when and where judgment was rendered by the consideration of the justices of our said court, that partition be made of said premises as the petitioner hath demanded, that they, the petitioner and defendant, may hold and enjoy their respective proportions aforesaid in the same in severalty for ever, and that the petitioner recover and have of the defendant his costs of suit, taxed at £20 10*s.* 4*d.*

We command you, therefore, that in your proper person you go to the lands and premises aforedescribed, and that you, by the oaths of twelve lawful men of your county, make partition between the parties by setting off and assigning unto the said Joseph Dexter the aforesaid one hundred and thirty acres, with the said dwelling-house, barn, and shop, and unto the aforesaid Jeremiah Dexter the aforesaid sixty-five acres, (having no greater regard unto the elder than to the younger.) We further command you, that of the goods and chattels of the said Joseph Dexter within your precinct, you execute and levy the aforesaid sum of twenty pounds ten shillings and four pence, current money, with fourteen shillings for this execution, and the return thereof, as also the lawful fees that shall be due for the serving thereof, and therewith satisfy and pay the aforesaid Jeremiah Dexter; and for want of sufficient estate of the said Joseph Dexter, to be by you found, to satisfy and pay the same as aforesaid, we command you to take the body of the said Joseph into your custody, and him safely secure in our jail in Providence, in our county of Providence, till that he satisfy and pay the aforesaid Jeremiah the aforesaid sum, or that he be by him therefrom discharged.

Hereof you are not to fail, but to make true return to our next inferior court of common pleas, to be holden at Providence, within and for our said county of Providence, on the third Tuesday of December instant, how you serve this writ.

Witness, Daniel Jenckes, Esq., at Providence, the eighth day of December, in the thirty-fourth year of our reign, A. D. 1760.

NICHOLAS BROWN, *Clerk.*

RETURN IN PARTITION.

To all persons to whom this writing indented may come:

Know ye, that, whereas Jeremiah Dexter, of Providence, in the county of Providence, yeoman, commenced an action of partition against Joseph Dexter, of Providence aforesaid, an infant, gentleman, at an inferior court of common pleas, held at Providence, within and for the county of Providence, on the third Tuesday of June last, for partition and division of one certain farm or tract of land, containing about one hundred and ninety-five acres, consisting of arable, meadow, wood, and pasture land, with a dwelling-house, barn, and shop thereon, standing and being situate in Providence aforesaid, one hundred and thirty acres whereof, with the said dwelling-house, barn, and shop, butted and bounded as followeth: beginning at the highway northward of the brook, then to run easterly to an elm tree, then extending to another elm tree, then easterly to a walnut tree at the head of the lane, then extending a straight line to three white oak trees standing on the northwest corner of Jnmes Brown's land, easterly to a white oak tree, northerly to a stake and heap of stones, westerly, to range with Silvanus Sayles's land, to a highway, thence to range to the first mentioned bounds, appertains and belongs to the said Joseph Dexter; the other part thereof, being about sixty-five acres, consisting of arable, meadow, wood, and pasture land, butted and bounded as followeth, to wit: beginning at the highway southward of the brook, then to run easterly to an elm tree, then to extend easterly to another elm tree, then easterly to a walnut tree at the head of the lane, then to run a straight line to three white oak trees in the northwest corner of James Brown's land, southerly to Herrington's lane, then westerly with said lane to the burying place, then northerly to the first mentioned bounds, appertains to the petitioner, which aforesaid premises the petitioner and defendant do hold together, undivided and in common, in fee. At which court, judgment was rendered that the aforesaid one hundred and thirty acres, with the said dwelling-house, barn, and shop, be set off and assigned unto the said Joseph Dexter, and the aforesaid sixty-five acres be set off and assigned unto the said Jeremiah Dexter; on which judgment a writ of partition was issued forth, directing and commanding the sheriff of the county of Providence, in his proper person, to go to the lands and premises aforedescribed, and that he, by the oaths of twelve lawful men of his county, make partition thereof between the parties, by setting off and assigning unto the said Joseph Dexter the aforesaid one hundred and thirty acres, with the said dwelling-house, barn, and shop, and unto the said Jeremiah Dexter the aforesaid sixty-five acres, having no greater regard to the elder than to the younger.

In pursuance of said writ of partition, and in obedience thereto, we, Allin Brown, of Providence aforesaid, Esq., sheriff of the county aforesaid, and Uriah Mowry, Ananias Mowry, Benjamin Smith, Rufus Smith, John Smith, jr., Ezekiel Smith, Jonathan Phettiplace, Benjamin Phettiplace, Benjamin Brown, Hosea Steere, Enos Eddy, and Joseph Ross, being the jurors returned by the sheriff aforesaid, approved by the parties, and engaged according to law, having come to each and every of the premises aforesaid, (having a respect to the true value thereof,) we, the said jurors, make partition and division of said premises in manner and form following, to wit, that is to say, one hundred and thirty acres thereof, with the said dwelling house, barn, and shop, butted and bounded as mentioned, and as set forth, butted, and bounded in said writ, we set off and divide unto the said Joseph Dexter,

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being his part of the aforesaid farm or tract of land, according to said writ; and the other part thereof, being about sixty-five acres, butted and bounded as in and by said writ may appear, we set off and divide unto the said Jeremiah Dexter, as his part of the said premises, according to said writ. And for the better certainty of the distinction of the several lines agreed upon by us in the division of the aforesaid premises, we have caused the plats thereof, drawn by Richard Steere, Esq., surveyor, and subscribed by him, to be hereunto affixed.* In witness whereof, we have hereunto set our hands and seals, the fifteenth day of December, 1760, in the thirty-fourth year of his Majesty's reign.

Ezekiel Smith,	[L. S.]	Allin Brown,	[L. S.]
his Jonathan + Phettiplace, mark	[L. S.]	Uriah Mowry,	[L. S.]
Benjamin Phettiplace,	[L. S.]	Ananias Mowry,	[L. S.]
Benjamin Brown,	[L. S.]	Benjamin Smith,	[L. S.]
Hosea Steere,	[L. S.]	Rufus Smith,	[L. S.]
Enos Eddy,	[L. S.]	John Smith, jr.,	[L. S.]
Joseph Ross,	[L. S.]		

SHERIFF'S RETURN.

Providence, *December* 15, 1760.

By virtue of the writ of our lord the King, to me directed, and of the indenture of partition hereto annexed, I, Allin Brown, Esq., sheriff of the county of Providence, on the fifteenth day of December, A. D. 1760, taking with me Uriah Mowry, Ananias Mowry, Benjamin Smith, Rufus Smith, John Smith, jr., Ezekiel Smith, Jonathan Phettiplace, Benjamin Phettiplace, Benjamin Brown, Hosea Steere, Enos Eddy, and Joseph Ross, twelve free and lawful men of my county, inhabitants of the towns of Smithfield and Gloucester, in my own proper person, went to the lands and premises mentioned and expressed in the said writ, and then by their oaths, having respect to the true value of said premises, with the appurtenances, I caused the same to be divided according to the said writ, which being divided according to the indenture of partition hereto annexed, I, the aforesaid sheriff, on the fifteenth day of December, A. D. 1760, one hundred and thirty acres thereof, being the north part, with the buildings thereon, as mentioned and described in said writ, have assigned and delivered unto the said Joseph Dexter, and the other part thereof, being about sixty-five acres, as mentioned and described in said writ, have assigned and delivered unto the said Jeremiah Dexter; and for the greater certainty of the distinction of the rights of the parties to the respective parts of said lands and premises, have caused the plats of the same to be annexed to the indenture of partition, with the names of the parties on the parts of said land to which they respectively appertain.

In witness whereof, I have hereunto set my hand and seal, with the seals of the jurors to the indenture of partition being also affixed, the day and year aforesaid.

ALLIN BROWN.

* See original.

JUDGMENT OF COURT ON PRECEDING.

At an inferior court of common pleas, begun and held at Providence, within and for the county of Providence, in the English colony of Rhode Island and Providence Plantations, in New England, in America, on the third Tuesday of June, in the thirty-third year of his Majesty reign, George the Second, by the grace of God King of Great Britain and Ireland, &c., Anno Domini 1760.

Jeremiah Dexter, of Providence, in the county of Providence, yeoman, plaintiff, Joseph Dexter, of Providence aforesaid, an infant, gentleman, defendant, in an action of partition, that he justly and without delay partition with the plaintiff make of one certain farm or tract of land, containing about one hundred and ninety-five acres, consisting of arable, meadow, wood, and pasture land, with a dwelling-house, barn, and a shop thereon, standing and being situate in Providence aforesaid, one hundred and thirty acres whereof, with said dwelling-house, barn, and shop, butted and bounded as followeth: beginning at the highway southward of the brook, then to run easterly to an elm tree, then extending to another elm tree, then easterly to a walnut tree at the head of the lane, then extending a straight line to three white oak trees standing on the northwest corner of James Brown's land, easterly to a white oak tree, northerly to a stake and heap of stones, westerly, to range with Silvanus Sayles's land, to a highway, thence to range to the first mentioned bounds, appertains and belongs to the defendant; the other part thereof, being about sixty-five acres, consisting of arable, meadow, wood, and pasture land, butted and bounded as followeth, to wit: beginning at the highway northward of the brook, then to run easterly to an elm tree, then to extend easterly to another elm tree, then easterly to a walnut tree at the head of the lane, then to run a straight line to three white oak trees in the northwest corner of James Brown's land, southerly to Harrington's lane, then westerly with said lane to the burying place, then northerly to the first mentioned bounds, appertains to the plaintiff; which aforesaid premises the plaintiff and defendant do hold together, and undivided and in common, in fee, partition whereof by law ought to be made, that the plaintiff and defendant may hold their respective proportions as aforesaid in the same in severalty for ever. And whereupon the plaintiff saith that Stephen Dexter, late of Providence aforesaid, yeoman, deceased, was, in his lifetime, seized of the premises aforesaid in fee, and being thereof so seized, on or about the twenty-eighth day of December, A. D. 1758, for the consideration of the love and affection he had for them, the plaintiff and defendant, and for their better support and advancement in life, did make a feoffment of, and did thereby give, enfeoff, and convey the premises aforesaid, in manner following, to wit: unto the said Joseph, his heirs and assigns for ever, the aforesaid one hundred and thirty acres, described as aforesaid, with the buildings thereon standing; the other sixty-five acres, as aforesaid, unto the plaintiff, his heirs and assigns for ever; and at said time delivered seisin and possession of the whole of said premises unto the plaintiff and defendant; whereupon they, the plaintiff and defendant, at the time aforesaid, became seized of the said premises in fee, and held the same in common. Now the plaintiff saith that by law partition ought to be made of said premises, that they, the plaintiff and defendant, may hold and enjoy their respective proportions as aforesaid in the same in severalty for ever. Yet the defendant, although often requested to make partition of the premises aforesaid with the plaintiff, hath at all times refus-

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ed, and the defendant doth still refuse, to the damage of the plaintiff thirty thousand pounds, current money.

And the defendant, by Cornelius Easton, his guardian, came into court and defended, &c., and for plea said that he doth not hold the lands in common with the plaintiff, as he, the plaintiff, declares, and of this he puts himself on his country; which said Cornelius Easton, grandfather to the defendant, the court appointed guardian to the said defendant in the room of Thomas Lapham, Esquire, his former guardian, who refused to act any longer as guardian, and which said Cornelius Easton accepted of said trust. And now the case was pleaded and committed to the jury, who gave a verdict in these words, to wit: "We find that partition be made as the plaintiff in his declaration hath demanded;" which verdict was accepted by the court. It is, therefore, considered by the court that partition be made of said premises as the plaintiff hath demanded, that they, the plaintiff and defendant, may hold and enjoy their respective proportions as aforesaid in the same in severalty for ever; and that the said Jeremiah recover and have of the said defendant his cost of suit, taxed at 20*l.* 10*s.* 4*d.*

Whereupon a writ of partition was issued, directed to the sheriff of the county of Providence, who came afterwards into court, to wit, at the term of December, A. D. 1760, and returned, that, on the fifteenth day of December, seventeen hundred and sixty, he caused the said lands to be divided according to the indenture of partition and plan to said return annexed, and had assigned the premises so divided unto the persons having a right thereto by said writ, as by said indenture of partition, return, and plan annexed, appeareth. It is, therefore, considered by the court that the partition so made be firm and stable, and that the plaintiff and defendant hold and enjoy the parts so set off and assigned in severalty for ever.

STATE OF RHODE ISLAND, &c. } *Clerk's Office of the Court of Common*
Providence, sc. } *Pleas for the county of Providence,*
June 13, 1828.

I certify that the three preceding pages contain a true copy of the record of judgment, and of the proceedings consequent thereon, in the action of partition in which Jeremiah Dexter, of Providence, in the county of Providence, yeoman, was plaintiff, and Joseph Dexter, of said Providence, (an infant,) was defendant, as appears of record in this office.

Attest, WM. R. WATSON, *Clerk of the Court*
Of Common Pleas for the county of Providence.

CIRCUIT COURT, *June term*, 1828.

I certify the preceding to be true copies of the original papers in the case of Jeremiah Dexter *vs.* Joseph Dexter, brought into this court by the aforesaid writ of duces tecum, duly compared and examined by me.

Witness, BENJAMIN COWELL, *Clerk.*

WRIT.

WILLIAM BROWN ET AL. *vs.* JOSEPH DEXTER.

PROVIDENCE, sc.—*George II., by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c., to the Sheriff of our county of Providence, or to his deputy, greeting:*

We command you to summon Joseph Dexter, of Providence, in our county of Providence, gentleman, (an infant,) if he may be found in your precinct, to answer the complaint of William Brown, yeoman, and Susannah his wife, Peter Randall, yeoman, and Freelove his wife, Wait Field, widow, Christopher Dexter, and Jeremiah Dexter, yeomen, all of said Providence, at the next inferior court of common pleas, to be holden at Providence, within and for our said county of Providence, on the third Tuesday of June next ensuing the date hereof, in an action of partition, that he, the defendant, justly and without delay partition with the petitioners make of one tract of land, containing about three hundred and thirteen acres of land, situate in Gloucester, in the county aforesaid, one third part whereof appertaineth to the petitioner Jeremiah, one third part whereof appertaineth unto the petitioner Freelove, and the other third part whereof appertaineth unto the petitioner Wait Field; also of one tract of land situate in Smithfield, in said county, containing about fifty acres, one third part thereof appertains to the petitioner Jeremiah, one third part thereof appertains to the petitioner Christopher, and the other third part thereof appertains to the defendant; all which premises the petitioners and defendant do hold together undivided and in common, partition whereof by law ought to be made, as by declaration to be filed in court will be fully set forth; the not making of which partition is to the damage of the plaintiff five thousand pounds, current money of New England. Hereof fail not, and make true return of this writ, with your doings thereon. Witness Daniel Jenckes, Esquire, at Providence, this twenty-first day of May, in the thirty-third year of our reign, A. D. seventeen hundred and sixty.

NICHOLAS BROWN, *Clerk.*

Summoned the within named defendant as commanded.

ALLIN BROWN, *Sheriff.*

Fees 17*s.*

DECLARATION.

PROVIDENCE, sc.—*To the honorable Inferior Court of Common Pleas, to be held at Providence, in and for the county of Providence, on the third Tuesday in June, A. D.* 1760.

William Brown, yeoman, and Susannah his wife, Peter Randall, yeoman, and Freelove his wife, Wait Field, widow, Christopher Dexter, and Jeremiah Dexter, yeomen, all of Providence, in the county of Providence, complain against Joseph Dexter, of said Providence, gentleman, (an infant,) legally summoned in an action of partition, that he justly and without delay partition with the petitioners make of one tract of land containing about three hundred and thirteen acres, situate in Gloucester, in said county, butted and bounded northerly on Littleworth cedar swamp, and laid out to Stephen Dexter, late of said Providence, yeoman, deceased, in the month

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of October, A. D. 1744, by Elisha Knowlton, surveyor, one third part whereof appertains to the petitioner Susannah, one third part whereof appertains to the petitioner Freelove, and the other third part thereof appertains to the petitioner Wait Field; also one tract of land, situate in Smithfield, in said county, containing about fifty acres, as described in a return of a survey made in the month of June, A. D. 1752, by Richard Sayles, surveyor, reference thereunto had may more fully appear—one third part whereof appertains to the petitioner Christopher, one third part thereof appertains to the petitioner Jeremiah, and the other third part thereof belongs to the defendant; which aforesaid premises the petitioners and defendant do hold together, undivided and in common, in fee, partition whereof by law ought to be made, that the petitioners and defendant may hold their respective proportions as aforesaid in the same in severalty for ever. And whereupon the petitioners complain and say, that Stephen Dexter, late of Providence aforesaid, yeoman, deceased, was, in his lifetime, seized of the premises aforesaid in fee, and, being so seized, on or about the 28th of December, A. D. 1758, for the consideration of the love and affection he had for them, the petitioners and defendant, and for their better support and advancement in life, did make a feoffment of, and did thereby give, enfeoff, and convey the premises aforesaid, in manner following, to wit: unto the said Susannah one third part of the aforesaid three hundred and thirteen acres, to her heirs and assigns for ever; one third part of the aforesaid three hundred and thirteen acres to the said Freelove, her heirs and assigns for ever; and to the said Wait Field, her heirs and assigns for ever, the remaining third part of the aforesaid three hundred and thirteen acres; to the petitioner Christopher, his heirs and assigns for ever, one third part of the aforesaid fifty acres; to the petitioner Jeremiah, his heirs and assigns for ever, one third part of the aforesaid fifty acres; and to the defendant, his heirs and assigns for ever, the remaining third part of the aforesaid fifty acres; and at said time delivered seisin and possession of the whole of said premises unto the petitioners and defendant; whereupon they, the petitioners and defendant, at the time aforesaid, became seized of the said premises in fee, and held the same in common. Now the petitioners say that by law partition ought to be made of said premises, that they, the petitioners and defendant, may hold and enjoy their respective proportions as aforesaid in the same in severalty for ever; yet the defendant, although often requested to make partition of the premises aforesaid with the petitioners, hath always refused, and the defendant doth still refuse, to the damage of the petitioners five thousand pounds, current money of New England, as by writ, dated the twenty-first day of May, in the thirty-third year of his Majesty's reign, A. D. seventeen hundred and sixty; and thereon they sue.

ANDREWS, *for the petitioners.*

And the defendant, by Cornelius Easton, his guardian, comes into court and defends the force and injury when, &c., and for plea saith that he doth not hold the lands in common with the petitioners, as they declare; and of this he puts himself on the country, by

SILAS DOWNER, *attorney for the guardian.*

VERDICT.

We find that partition be made as the plaintiffs in their declaration have demanded.

EXECUTION IN PARTITION.

PROVIDENCE, sc.—*George the Second, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c., to the sheriff of our county of Providence, in our colony of Rhode Island, greeting:*

Whereas William Brown, yeoman, and Susannah his wife, Peter Randall, yeoman, and Freelove his wife, Wait Field, widow, Christopher Dexter, and Jeremiah Dexter, yeomen, all of Providence, in the county of Providence, commenced an action of partition against Joseph Dexter, of said Providence, gentleman, (an infant,) at an inferior court of common pleas begun and held at Providence, within and for our said county of Providence, on the third Tuesday of June last past, that he, the said Joseph Dexter, justly and without delay partition make with the plaintiffs of one tract of land, containing about three hundred and thirteen acres, situate in Gloucester, in said county, butted and bounded northerly on Littleworth cedar swamp, and laid out to Stephen Dexter, late of said Providence, yeoman, deceased, in the month of October, 1744, by Elisha Knowlton, surveyor, one third part whereof appertains to the plaintiff Susannah, one third part thereof appertains to the plaintiff Freelove, and the other third part thereof appertains to the plaintiff Wait Field; also, of one tract of land, situate in Smithfield, in said county, containing about fifty acres, as described in a return of a survey made in the month of June, A. D. 1752, by Richard Sayles, surveyor, reference thereunto being had may more fully appear; one third part whereof appertains to the plaintiff Christopher, one third part thereof appertains to the plaintiff Jeremiah, and the other third part thereof belongs to the defendant; which aforesaid premises the plaintiffs and defendant do hold together undivided and in common. At which court judgment was rendered by the consideration of the judges of our said court, that partition be made of said premises as the plaintiffs have demanded, that they, the said plaintiffs and defendant, may hold and enjoy their respective proportions in the same as aforesaid in severalty for ever; and that they, the plaintiffs, recover and have of the defendant their costs of suit, taxed at £22 2*s.* 4*d.*

We command you, therefore, that, in your proper person, you go to the lands and premises aforedescribed; and that you, by the oaths of twelve lawful men of your county, make partition thereof between the parties by setting off and assigning one third part thereof to the said Susannah, and one third part thereof to the said Freelove, and the other third part thereof unto the said Wait Field, (having no greater regard to the elder than to the younger;) and, also, by setting off and assigning one third part of the other tract of land above mentioned and described unto the said Christopher Dexter, one third part thereof unto the said Jeremiah Dexter, and the remaining third part thereof unto the defendant Joseph Dexter, having no greater regard to the elder than to the younger; and that of the goods and chattels of the said Joseph Dexter within your precinct you execute and levy the aforesaid sum of twenty-two pounds two shillings and four pence, current money of our said colony, old tenor, together with fourteen shillings for this execution and the return thereof, as, also, the lawful fees that shall be due for serving thereof, and therewith satisfy and pay the said plaintiffs; and for want of sufficient estate of the said Joseph Dexter, to be by you found, to

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satisfy and pay the same as aforesaid, we command you to take the body of the said Joseph Dexter into your custody, and him safely secure in our jail in Providence, in our said county of Providence, till that he satisfy and pay the said plaintiffs the aforesaid sum, or that he be by them therefrom discharged.

Hereof you are not to fail, but make true return to our next inferior court of common pleas, to be holden at Providence, within and for our said county of Providence, on the third Tuesday of December instant, how you serve this writ.

Witness, Daniel Jenckes, Esq., at Providence, first day of December, in the thirty-fourth year of our reign, A. D. 1760.

NICHOLAS BROWN, *Clerk.*

RETURN IN PARTITION.

To all persons to whom this writing indented may come.

Know ye, that, whereas William Brown, yeoman, and Susannah his wife, Peter Randall, yeoman, and Freelove his wife, Wait Field, widow, Christopher Dexter, and Jeremiah Dexter, yeomen, all of Providence, in the county of Providence, commenced an action of partition against Joseph Dexter, of said Providence, gentleman, infant, at an inferior court of common pleas, begun and held at Providence, within and for our said county of Providence, on the third Tuesday of June last past, that he, the said Joseph Dexter, justly and without delay partition make with the plaintiffs of one tract of land containing about three hundred and thirteen acres, situate in Gloucester, in said county, butted and bounded northerly on Littleworth cedar swamp, and laid out to Stephen Dexter, late of said Providence, yeoman, deceased, in the month of October, A. D. 1744, by Elisha Knowlton, surveyor, one third part whereof appertains to the plaintiff Susannah, one third part whereof appertains to the plaintiff Freelove, and the other third part whereof to the plaintiff Wait Field; also of one tract of land, situate in Smithfield, in said county, containing about fifty acres, as described in a return of a survey, made in the month of June, A. D. 1752, by Richard Sayles, surveyor, reference thereunto being had may more fully appear, one third part whereof appertains to the plaintiff Christopher, one third part whereof appertains to the plaintiff Jeremiah, and the other third part thereof appertains to the defendant: at which court judgment was rendered that partition be made of said premises, as the plaintiffs have demanded, on which judgment a writ of partition was issued forth, directing and commanding the sheriff of the county of Providence, in his own proper person, to go to the lands and premises aforesaid, that he, by the oaths of twelve lawful men of his county, made partition thereof between the parties, by setting off and assigning to them their respective proportions as aforesaid in the same in severalty, having no greater regard to the elder than to the younger.

In pursuance of said writ of partition, and in obedience thereunto, we, Allin Brown, of Providence aforesaid, Esquire, sheriff of the county aforesaid, and Uriah Mowry, Ananias Mowry, Benjamin Smith, Rufus Smith, John Smith, jr., Ezekiel Smith, Jonathan Phettiplace, Benjamin Phettiplace, Benjamin Brown, Hosea Steere, Enos Eddy, and Joseph Ross, being the jurors returned by the sheriff, approved by the parties, and engaged according to law, having respect to the true value thereof, do make partition of the first mentioned tract in manner and form following, to wit: one hundred

and thirteen acres of said tract, on the westerly part thereof, we set off and divide, for one third part, by a line running from a place two poles easterly from a poplar tree, about south, till it meets with a line running east from a pine bound standing at the northwest corner of an oblong part of the aforesaid tract; one hundred acres thereof, for another third part, we set off and divide, on the easterly part of said tract, by a line running from a stone heap, in the northerly line or bound of said tract, seventeen poles from the beginning bound by the return, and from the said stone heap running southerly to a stone heap, seventeen poles and a half westward from a walnut, mentioned in said return; and the remaining part of said tract, being the land contained between the two aforesaid parts, with an oblong piece stretching out on the southerly side of said tract, containing one hundred acres, we set off and divide for the other third part; also, we set off and divide one third part of the other of said tracts, on the westerly part thereof, by a line running parallel to the westerly bound or line of said tract, another third part we divide by another line running parallel to the former, and the remainder of said tract, being the easterly part thereof, we set off and divide, for the remaining third part of said tract; all which we set off and divide unto the persons having a right thereunto by said writ. And for the better certainty of the distinction of the several lines agreed upon by us in the division of the aforesaid lands, we have caused the several plats thereof, drawn by Richard Steere, Esq., surveyor, and subscribed by him, to be hereunto affixed.* In witness whereof, we have hereunto set our hands and seals, the fifteenth day of December, 1760, in the thirty-fourth year of his Majesty's reign.

Allin Brown,	[L. S.]	Jonathan his + mark Phettiplace,	[L. S.]
Uriah Mowry,	[L. S.]	Benjamin Phettiplace,	[L. S.]
Ananias Mowry,	[L. S.]	Hosea Steere,	[L. S.]
Benjamin Smith,	[L. S.]	Enos Eddy,	[L. S.]
Rufus Smith,	[L. S.]	Benjamin Brown,	[L. S.]
John Smith, Jr.,	[L. S.]	Joseph Koss.	[L. S.]
Ezekiel Smith,	[L. S.]		

SHERIFF'S RETURN.

Providence, ss. By virtue of the writ of our lord the King, to me directed, and of the indenture of partition hereto annexed, I, Allin Brown, Esq., sheriff of the county of Providence, on the 15th day of December, 1760, taking with me Uriah Mowry, Ananias Mowry, Benjamin Smith, Rufus Smith, John Smith, jr., Ezekiel Smith, Jonathan Phettiplace, Benjamin Phettiplace, Benjamin Brown, Hosea Steere, Enos Eddy, and Joseph Ross, twelve free and lawful men of my county, inhabitants of the towns of Smithfield and Gloucester, went to the lands and premises mentioned and expressed in said writ, and to each of them and there by their oaths, having respect to the true value of said premises, the said lands I caused to be divided into the several parts according to said writ: the tract of land first mentioned and described in the aforesaid writ being divided according to the aforesaid indenture of partition, I, the aforesaid sheriff, on the 15th day of December, A. D. 1760, one third part thereof, being the westerly part, have assigned and delivered unto the said Freelove, and the other third part

* See original.

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thereof unto the said Wait Feld; and also the other tract mentioned and described in said writ, being divided according to the aforesaid indenture of partition, one third part thereof, to wit, the westerly part, I have assigned and delivered unto the said Christopher Dexter; one third part thereof, to wit, the middle part, unto the said Jeremiah Dexter; and the other third part thereof unto the said Joseph Dexter: and for the greater certainty of the distinction of the rights of the parties to the respective parts of said tracts, I have caused the plats of the same to be annexed to the indenture of partition, with the names of the parties on the parts of the said tract of land to which they respectively appertain to.

In witness whereof, I have hereunto set my hand and seal, with the seals of the jurors to the indenture of partition being also affixed, the day and year aforesaid. ALLIN BROWN. [SEAL.]

I acknowledge to have received from Allin Brown, Esq., possession of the lands and premises assigned to me, the said Susannah, in pursuance of the aforesaid writ.

Witness my hand and seal, the fifteenth day of December, 1760.

SUSANNAH BROWN. [SEAL.]

I acknowledge to have received from Allin Brown, Esq., possession of the lands and premises assigned to me, the said Freelove, in pursuance of the aforesaid writ.

Witness my hand and seal, the 15th day of December, A. D. 1760.

FREELOVE RANDALL. [SEAL.]

I acknowledge to have received from Allin Brown, Esq., possession of the lands and premises assigned to me in pursuance of the aforesaid writ.

Witness my hand and seal, the fifteenth day of December, 1760.

WAIT FIELD. [SEAL.]

I acknowledge to have received from Allin Brown, Esq., possession of the lands and premises assigned to me in pursuance of the aforesaid writ.

Witness my hand and seal, this fifteenth day of December, A. D. 1760.

CHRISTOPHER DEXTER. [SEAL.]

I acknowledge to have received possession from Allin Brown, Esq., of the lands and premises assigned to the said Joseph Dexter in pursuance of the abovesaid writ.

Witness my hand and seal, this fifteenth day of December, 1760.

JEREMIAH DEXTER. [SEAL.]

I acknowledge to have received from Allin Brown, Esq., possession of the lands and premises assigned to me in pursuance of the aforesaid writ.

Witness my hand and seal, the fifteenth day of December, 1760.

CORNELIUS EASTON, [SEAL.]
Guardian to Joseph Dexter.

RHODE ISLAND DISTRICT, ss.—*United States Circuit Court, June term,* 1828.

I certify the preceding to be true copies of the original papers in the case of William Brown against Joseph Dexter, brought into court on the duces tecum aforesaid, duly compared and examined by me.

Witness, BENJAMIN COWELL, *Clerk.*

DEED.

To all people to whom these presents shall come, greeting:

Know ye, that I, Christopher Dexter, of Providence, in the county of Providence, yeoman, for and in consideration of the love, good will, and affection, that I have and do bear unto my loving brother, Jeremiah Dexter, of said Providence, yeoman, as also to fulfil the mind and intent of my honored father, Stephen Dexter, late of said Providence, yeoman, deceased, have given, granted, bargained, aliened, conveyed, and confirmed, and by these presents do freely, fully, and absolutely give, grant, bargain, alien, convey, and confirm, unto him, the said Jeremiah Dexter, his heirs and assigns for ever, a certain part of the southerly side of that farm that was the homestead of my honored father, contained within the following bounds: beginning at a stake standing in the fence on the western side of said farm, eight lengths of fence south of the great walnut tree; from thence easterly to an ash stump, with stones on it; thence northerly to an elm tree, marked; thence easterly to a walnut tree, standing in the line fence; thence to three white oaks that grew from one stump, and which is the northwest corner of Moses Brown's land; thence south to the line called Harridon's land; thence westerly, bounding with said land, to the stated common; thence northerly, by ranging with the fence, to the first mentioned bound; be the same more or less: also, forty acres of the northerly end of that tract of land called the Plain, lying and being on the west side of the Mill river, to be set off by running an east and west line; as also one third part of that tract of land lying and being in the town of Smithfield, and is known by the name of Donosus' land; as also one third part of my right in the thatch bed lying and being in the town of Providence.

To have and to hold the said bargained premises, with all the appurtenances, privileges, and commodities, to the same belonging, or in anywise appertaining, to him, the said Jeremiah Dexter, his heirs and assigns for ever to his and their only proper use, benefit, and behoof, for ever. And I, the said Christopher Dexter, for myself, my heirs, executors, and administrators, do covenant, promise, and grant, to and with Jeremiah Dexter, his heirs and assigns, that, before the ensealing hereof, I am the true, sole, and lawful owner of the above bargained premises, and am lawfully seized and possessed of the same in my own proper right, as a good, perfect, and absolute estate of inheritance, in fee simple; and have in myself good right, full power, and lawful authority, to grant, bargain, convey, and confirm said bargained premises, in manner as aforesaid; and that the said Jeremiah Dexter, his heirs and assigns, shall and may, from time to time, and all times, for ever hereafter, by force and virtue of these presents, lawfully, peaceably, and quietly, have, hold, use, occupy, possess, and enjoy the said demised and bargained premises, with the appurtenances, free and clear, and freely and clearly acquitted, exonerated, and discharged of, from all manner of former or other gifts, grants, bargains, sales, leases, mortgages, wills, entails, jointures, dowries, judgments, executions, or incumbrances of what name or nature soever, that might in any measure or degree obstruct or make void this present deed.

Furthermore, I, the said Christopher Dexter, for myself, my heirs, executors, and administrators, do covenant and engage the above demised premises, to him the said Jeremiah Dexter, his heirs and assigns, against the law-

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ful claims or demands of any person or persons whatsoever, for ever hereafter to warrant, secure, and defend, by these presents.

In witness whereof, I have hereunto set my hand and seal, this seventeenth day of December, in the thirty-third year of his Majesty's reign, A. D. 1759.

CHRISTOPHER DEXTER. [L. S.]

Signed, sealed, and delivered, in presence of
GEORGE TAYLOR,
GEORGE TAYLOR, jr.

PROVIDENCE, to wit:

In Providence, the 19th day of December, A. D. 1759, Christopher Dexter, the grantor above named, personally acknowledged the above written instrument to be his free act and deed, before me.

GEORGE TAYLOR, *J. P.*

VERDICT.

IN THE CASE OF OLIVER SAUNDERS *vs.* BENJAMIN GOULD.

The jury find that Stephen Dexter, some time during the year 1758, was seized of the premises described in the plaintiff's declaration, together with other valuable real estates; and that about that time he died intestate, leaving issue as follows: Joseph Dexter and Moses Dexter, his grandsons, being children of his deceased and oldest son, Joseph Dexter, by Mary Esten, wife of the said Joseph; and that his said grandson, Joseph Dexter, was his sole heir at law. The said Stephen also left the following children, to wit: Christopher Dexter, Jeremiah Dexter, Edward Dexter, Freelove Randall, wife of Peter Randall, Susan Brown, wife of William Brown, and Wait Field, wife of Charles Field.

The jury also find, that, at the June term, A. D. 1760, of the court of common pleas within and for the county of Providence, and State of Rhode Island, four actions of partitions were commenced by the said Christopher Dexter, and the other children of the said Stephen Dexter, against the said Joseph Dexter; and that, at the same term, judgments were recovered against the said Joseph in each of said actions, and executions issued thereon, and the said premises demanded in the declaration of the said Oliver Saunders were set off in severalty to the said Joseph Dexter, as by the copies of said judgments, proceedings, and executions, will appear, and which judgments, proceedings, and executions, they find and return as part of their verdict.

The jury further find, that the said Joseph Dexter, grandson of the said Stephen, entered into the possession of the demanded premises at the time mentioned in said executions, and continued seized thereof in fee simple until his death, intestate and without issue, which took place some time in the year 1813. The jury also find, that the children of the said Stephen Dexter, deceased, took possession of the other real estates of the said Stephen Dexter, deceased, described in said judgments and executions, and remained in possession thereof until their respective deaths; but whether the said Joseph Dexter took possession of the demanded premises as a purchaser, or as heir at law, the jury leave to be decided by the court, as a matter of law arising out of the said judgments of court, executions, and the other proceedings therein contained, and the other facts therein found.

The jury further find, that, upon the death of the said Joseph Dexter in said year of 1813, the demanded premises descended to Moses Dexter, the brother and sole heir at law of the said Joseph Dexter; and that the said Moses thereupon entered into the possession thereof, and became seized thereof in fee simple, until some time during the year 1825, when the said Moses died intestate, and without issue.

The jury further find, that the said Joseph Dexter was under guardianship from his infancy to the time of his death, on account of infancy and lunacy; and that the said Moses was also under guardianship from his infancy to the time of his death, on account of infancy and lunacy.

The jury also find, that the said Joseph Randall and others, defendants in said action of the said Oliver Saunders, are lineally descended from the said Christopher Dexter, deceased, and the other deceased children of the said Stephen Dexter; and that said defendants are the next of kin of the said Moses and Joseph, deceased, of the whole blood of the said Stephen first named, and the next of kin of said Moses and Joseph, of the blood of said Stephen.

The jury also find, that Mary Esten, wife of the said Joseph Dexter, deceased, and mother of the said Joseph and Moses Dexter, was the daughter of Cornelius Esten, the guardian ad litem to the said Joseph Dexter in said actions of partition; that the said Mary Esten, after the death of the said Joseph, married Robert Polluck, by whom she had two daughters, Polly and Margaret; that the said Polly married Oliver Saunders, by whom she had five children; and that the said Oliver Saunders, the plaintiff, is the oldest son of the said Polly by her said husband, and was in full life at the decease of the said Moses Dexter; and that the said Polly was, and the plaintiff, her son, is, of the nearest of kin of the half blood of the said Moses Dexter and Joseph Dexter, his deceased brother.

The jury also find, that Margaret, the other daughter of the said Mary Esten, is now in full life.

The jury also find, that the said Mary Esten, the grandmother, and the said Polly Polluck, the mother of the plaintiff, both died before the death of the said Moses Dexter; and whether, upon the whole matter, the plaintiff is entitled to any part of said premises, the jury leave to be decided by the court, upon the facts herein stated. If, upon the law, the court are of opinion that the plaintiff is entitled, then they find for the plaintiff one undivided tenth part of the demanded premises: if the court is of opinion that the plaintiff is not entitled, they find for the defendants their costs.

N. M. WHEATON, *Foreman.*

ADDITION TO SPECIAL VERDICT.

"And the jury further find, that, at the February session of the General Assembly of the State of Rhode Island and Providence Plantations, in the year 1792, the said Moses Dexter, under whom the plaintiff claims, preferred a petition, and therein set forth, among other things, that his brother, the said Joseph Dexter, inherited a large and valuable estate from his grandfather, the said Stephen Dexter, deceased, at a time when by law all estate descended to the male heir, and that he, the said Moses, inherited nothing from his father; that he, the said Moses, was impoverished and entirely dependent on the charity of other people; that his said brother had wholly abandoned said estate and quitted his country, and refused to return to improve

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said estate; that the town council of North Providence had appointed a guardian over said estate, who was desirous of administering to the necessities of him, the said Moses, provided he might be authorized by said Assembly so to do; and praying said Assembly to direct a part of the rents and profits of said estate to be applied to the maintenance of him, the said Moses; upon which petition the jury further find, that said Assembly did direct forty dollars annually to be allowed to said Moses Dexter during his life, out of said estate; and that the said estate was the same whereof the estate sued for by the plaintiff in this action is part and parcel; and also find the matters and things set forth in the copy of record hereunto attached, marked A, certified by Henry Bowen, Secretary."

It is agreed by the parties in the case of Oliver Saunders *vs.* Benjamin Gould, that if the paper marked A, hereto annexed, being an authentic copy from the records of the General Assembly, and the matters recited in the above finding, shall be deemed legal evidence in said case by the court, then the above written matter shall be inserted in and added to the special verdict in said case, next before the words, "but whether the said Joseph Dexter took possession."

J. L. TILLINGHAST, *for deft.*
JOHN WHIPPLE, *for plaintiff.*

PAPER MARKED A—[*Referred to.*]

STATE OF RHODE ISLAND, &c.—*In General Assembly, February session, A. D.* 1792.

Whereas Moses Dexter, of North Providence, in the county of Providence, laborer, preferred a petition and represented unto this Assembly that his brother Joseph Dexter inherited a large and valuable estate from his grandfather, Captain Stephen Dexter, of said North Providence, deceased, at a time when, by law, all estates descended to the eldest male heir; that he, the said Moses, inherited nothing from his father; and that, by reason of various misfortunes, he has become extremely impoverished, is wholly incapable of procuring a livelihood by his labor, and is entirely dependent on the charity of other people for subsistence; that his said brother had wholly abandoned said estate, and has quitted his country, and utterly refused either to return or to improve the said estate; that the town council of North Providence has appointed a guardian over said estate, who is desirous of administering to the necessities of him, the said Moses, provided he might be authorized by this Assembly so to do. The said Moses, therefore, prayed this Assembly to direct that a part of the rents and profits of the said estate be applied to the maintenance of him, the said Moses; and as several respectable inhabitants of the county of Providence joined in the prayer of said petition, on consideration thereof, it is enacted by this Assembly, and by the authority thereof, that forty dollars be allowed Moses Dexter, out of the estate of Joseph Dexter aforesaid, annually, from the date of this petition, and henceforward, during the life of the said Moses, and that said Moses be committed to the care and *appropriation* of the guardian of the said Moses for the time being, or until this Assembly otherwise order.

True copy, witness,

HENRY BOWEN, *Secretary.*

BILL OF EXCEPTIONS.

Circuit Court, June Term, 1828.

OLIVER SAUNDERS *vs.* JOSEPH RANDALL, &c.

Memorandum.—On the trial of this cause before the jury, the counsel for the defendant produced and offered in evidence, in support of their defence, a certain bond executed by Edward Dexter, and others, to Christopher Dexter, dated the 17th day of December, 1759, a copy of which is hereunto annexed, and marked No. 1.

Also two deeds executed by Christopher Dexter, one to his sister Susannah Brown, Freelove Randall, and Waite Field, dated the 17th day of December, 1759, and one bearing the same date, executed by said Christopher Dexter to his brother Edward Dexter; copies of which deeds are hereunto annexed, and marked Nos. 2 and 3.

Also the writ and declaration in an action of trespass prosecuted by Joseph Dexter, through his guardian Thomas Lapham, at the inferior court of common pleas for the county of Providence, June term, 1760, copies of which are also annexed, marked Nos. 4 and 5: to the admission of which several documents in evidence to the jury as aforesaid, the counsel for the plaintiff objected, on which the court decided that the said documents should not pass in evidence to the jury on the trial of said cause.

To which decision of the court the counsel for the defendants then and there excepted, and prayed their exceptions to be allowed by the court; which being found true, is allowed by the undersigned Judge, who sat at the trial.

Witness my hand and seal.

[L. S.] JOSEPH STORY, *one of the Justices Of the Supreme Court of the United States.*

BOND, No. 1—[*Referred to in bill of exceptions.*]

Know all men by these presents, that we, Jeremiah Dexter, yeoman, Edward Dexter, mariner, William Brown, yeoman, Peter Randall, yeoman, and Wait Field, widow, all of Providence, in the county of Providence, are held and firmly do stand bound and obliged unto Christopher Dexter, of said Providence, yeoman, each one of us in the full and just sum of one thousand pounds, current lawful money of the colony of Rhode Island, old tenor, to be paid unto the said Christopher Dexter, his executors, administrators, or assigns; to the which payment, well and truly to be made and done, we bind ourselves, and each one for himself, and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, dated the seventeenth day of December, in the thirty-third year of the reign of George the Second, of Great Britain, &c. King, A. D. 1759.

Whereas Stephen Dexter, late of Providence, in the county of Providence, yeoman, late deceased, died intestate, leaving three sons and three daughters, issue, to wit: the above named Christopher, his eldest son and heir at law, the above named Jeremiah and Edward, Susannah, the wife of the above named William Brown, Freelove, the wife of the above named Peter Randall, and Wait, widow of Charles Field, late deceased; and as the said Stephen at the time of his death was seized in his own right of many

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valuable estates in lands that was undisposed of; and as the said Stephen in his life time had often expressed his mind and intent how said lands should be divided amongst his children; therefore, in order to fulfil the mind and intent of the said Stephen, the above named Christopher hath given to each of his said brothers and sisters deeds of all such part of the land left by him, the said Stephen, as was designed by him for each of them, as far as the same can be known; and the said Christopher hath also set off to and for the children of his brother, Joseph Dexter, deceased, such part of said lands as was designed by his father, the said Stephen, for his said brother, Joseph Dexter; but said children, not content therewith, have, by Thomas Lapham, Esq., their guardian, brought an action of trespass and ejectment against the said Christopher for the whole of the lands possessed by the said Stephen that was undisposed of at the time of his death; and, in consideration that he, the said Christopher, will and doth undertake and manage the defence of said suit to final judgment, that then they, the said Jeremiah Dexter, Edward Dexter, William Brown, Peter Randall, and Wait Field, will, at all times when demanded, unto him, the said Christopher, pay their proportionable part of all costs and damages that shall arise in defending said suit. Therefore, the condition of the above obligation is such, that, if the above named Jeremiah Dexter, Edward Dexter, William Brown, Peter Randall, and Wait Field, they and each of them, their heirs, executors, administrators, or assigns, or any of them, shall and do well and truly pay or cause to be paid unto the said Christopher Dexter, his heirs, executors, administrators, or assigns, their part of all such costs and charges as shall arise in defending said suit, in the following proportion, that is to say, the said Jeremiah one fourth part, the said Edward Dexter the one fourth part, the said William Brown the one twelfth part, the said Peter Randall one twelfth part, and the said Wait Field one twelfth part, without fraud, covin, or further delay, then the above obligation to be void and of none effect, otherwise to remain in full force and virtue in the law.

JEREMIAH DEXTER, [L. S.]
EDWARD DEXTER, [L. S.]
WAIT FIELD, [L. S.]

Signed, sealed, and delivered, in the presence of
HEZEKIAH ALLEN,
WAIT FIELD, Jr.

CERTIFICATE.

RHODE ISLAND DISTRICT, ss.—*Clerk's office, United States' circuit court, January term*, 1828.

I certify the preceding to be a true copy of the original bond, marked No. 1 in the bill of exceptions, duly compared and examined by me.

BENJAMIN COWELL, *Clerk.*

DEED, No. 2—[*Referred to in bill of exceptions.*]

To all people to whom these presents shall come, greeting:

Know ye, that I, Christopher Dexter, of Providence, in the county of Providence, yeoman, for and in consideration of the love and good will which I have and do bear unto my loving brother Edward Dexter, of Pro-

vidence, in the county of Providence, mariner, as, also, as far as may be to fulfil the mind and intent of my honored father, Stephen Dexter, late of said Providence, yeoman, deceased, have given, granted, bargained, aliened, conveyed, and confirmed, and by these presents do freely, fully, and absolutely give, grant, bargain, alien, convey, and confirm, unto him, the said Edward Dexter, his heirs and assigns for ever, a certain tract or parcel of land, containing one hundred and eight acres, on the west side of the seven mile line, laid out on the original right of Edward Cope, and is about a mile northwest of Pullemegunsit pond, and is butted and bounded according to the return thereof, dated May 1st, 1723, by Elisha Knowlton, surveyor; as, also, one other piece of land, containing about forty-five acres, be the same more or less, bounded south with a stake and stones standing in the fork of the road leading to Dexter's bridge; then northwesterly, adjoining with the said Easton's land, to the mill river; then southerly, with the said mill river, to Dexter's bridge; thence, with the road, to the first mentioned bounds.

To have and to hold the said granted and bargained premises, with all the appurtenances, privileges, and commodities, to the same belonging or in any wise appertaining, to him, the said Edward Dexter, his heirs and assigns for ever, to his and their only proper use, benefit, and behoof for ever. And I, the said Christopher Dexter, for myself, my heirs, executors, and administrators, do covenant, promise, and grant, to and with the said Edward Dexter, his heirs and assigns, that before the ensealing hereof I am the true, sole, and lawful owner of the above bargained premises, and am lawfully seized and possessed of the same in my own proper right, as a good, perfect, and absolute estate of inheritance, in fee simple, and have in myself good right, full power, and lawful authority, to grant, bargain, convey, and confirm said bargained premises in manner aforesaid; and that the said Edward Dexter, his heirs and assigns, shall and may, from time to time, and and at all times for ever hereafter, by force and virtue of these presents, lawfully, peaceably, and quietly, have, hold, use, occupy, possess, and enjoy the said demised and bargained premises, with the appurtenances, free and clear, and freely and clearly acquitted, exonerated, and discharged of, from all and all manner of former or other gifts, grants, bargains, sales, leases, mortgages, wills, entails, jointures, dowries, judgments, executions, or incumbrances of what name or nature soever, that might in any measure or degree obstruct or make void this present deed.

Furthermore, I, the said Christopher Dexter, for myself, my heirs, executors, and administrators, do covenant and engage the above demised premises, to him, the said Edward Dexter, his heirs and assigns, against the lawful claims or demands of any person or persons whatsoever, for ever hereafter to warrant, secure, and defend, by these presents.

In witness whereof, I have hereunto set my hand and seal, this seventeenth day of December, in the thirty-third year of his Majesty's reign, A. D. 1759.

CHRISTOPHER DEXTER, [L. S.]

Signed, sealed, and delivered, in presence of
GEORGE TAYLOR,
GEORGE TAYLOR, Jr.

PROVIDENCE, to wit: 838.

In Providence, this 19th day of December, A. D. 1759, Christopher Dexter, the grantor above named, personally acknowledged the above written instrument to be his own free act and deed, before me,

GEORGE TAYLOR, *J. P.*

RHODE ISLAND DISTRICT, ss.—*Circuit Court, January term*, 1828.

I hereby certify the preceding to be a true copy of the original deed (marked No. 2 in the bill of exceptions) of Christopher Dexter to Edward Dexter, duly produced on trial of said cause, and examined and compared by me. Witness,

BENJAMIN COWELL, *Clerk.*

DEED, No. 3.

To all people to whom these presents shall come, greeting:

Know ye, that I, Christopher Dexter, of Providence, in the county of Providence, yeoman, for and in consideration of the love and good will that I have and do bear unto my loving sisters, Susannah Brown, Freelove Randall, and Wait Field, all of Providence, as also to fulfil the mind and intent of my honored father, Stephen Dexter, late of said Providence, yeoman, deceased, have given, grated, bargained, aliened, conveyed, and confirmed, and by these presents do freely, fully, and absolutely, give, grant, bargain, alien, convey, and confirm, unto them, the said Susannah Brown, Freelove Randall, and Wait Field, and to their heirs and assigns for ever, a certain tract or parcel of land, containing three hundred and thirteen acres, be the same more or less, situate, lying and being in the town of Gloucester, on the south side, and adjoining to the swamp commonly called and known by the name of Littleworth cedar swamp, laid out upon the original right of John Whipple, deceased, and Gregory Dexter, and is butted and bounded as by the return thereof may appear. To have and to hold the said granted and bargained premises, with all the appurtenances, privileges, and commodities, to the same belonging, or in anywise appertaining, to them, the said Susannah, Freelove, and Wait, their heirs and assigns for ever, to them and their only proper use, benefit, and behoof, for ever.

And I, the said Christopher Dexter, for myself, my heirs, executors, and administrators, do covenant, promise, and grant, to and with Susannah, Freelove, and Wait, and with their heirs and assigns, that, before the ensealing hereof, I am the true, sole, and lawful owner of the above bargained premises, and am lawfully seized and possessed of the same in my own proper right, as a good, perfect, and absolute estate of inheritance, in fee simple, and have, in myself, good right, full power and authority, to grant, bargain, convey, and confirm said bargained premises in manner as aforesaid; and that the said Susannah, Freelove, and Wait, their heirs and assigns, shall and may, from time to time, and at all times for ever hereafter, by force and virtue of these presents, lawfully, peaceably, and quietly, have, hold, use, occupy, possess, and enjoy the said demised and bargained premises, with the appurtenances, free and clear, and freely and clearly acquitted, exonerated, and discharged of, from all and all manner of former or other gifts, grants, bargains, sales, leases, mortgages, wills, entails, jointures, dowries, judgments, executions, or incumbrances, of what name or

videnee, in the county of Providence, mariner, as, also, as far as may be to fulfil the mind and intent of my honored father, Stephen Dexter, late of said Providence, yeoman, deceased, have given, granted, bargained, aliened, conveyed, and confirmed, and by these presents do freely, fully, and absolutely give, grant, bargain, alien, convey, and confirm, unto him, the said Edward Dexter, his heirs and assigns for ever, a certain tract or parcel of land, containing one hundred and eight acres, on the west side of the seven mile line, laid out on the original right of Edward Cope, and is about a mile northwest of Pullemegunsit pond, and is butted and bounded according to the return thereof, dated May 1st, 1723, by Elisha Knowlton, surveyor; as, also, one other piece of land, containing about forty-five acres, be the same more or less, bounded south with a stake and stones standing in the fork of the road leading to Dexter's bridge; then northwesterly, adjoining with the said Easton's land, to the mill river; then southerly, with the said mill river, to Dexter's bridge; thence, with the road, to the first mentioned bounds.

To have and to hold the said granted and bargained premises, with all the appurtenances, privileges, and commodities, to the same belonging or in any wise appertaining, to him, the said Edward Dexter, his heirs and assigns for ever, to his and their only proper use, benefit, and behoof for ever. And I, the said Christopher Dexter, for myself, my heirs, executors, and administrators, do covenant, promise, and grant, to and with the said Edward Dexter, his heirs and assigns, that before the ensealing hereof I am the true, sole, and lawful owner of the above bargained premises, and am lawfully seized and possessed of the same in my own proper right, as a good, perfect, and absolute estate of inheritance, in fee simple, and have in myself good right, full power, and lawful authority, to grant, bargain, convey, and confirm said bargained premises in manner aforesaid; and that the said Edward Dexter, his heirs and assigns, shall and may, from time to time, and and at all times for ever hereafter, by force and virtue of these presents, lawfully, peaceably, and quietly, have, hold, use, occupy, possess, and enjoy the said demised and bargained premises, with the appurtenances, free and clear, and freely and clearly acquitted, exonerated, and discharged of, from all and all manner of former or other gifts, grants, bargains, sales, leases, mortgages, wills, entails, jointures, dowries, judgments, executions, or incumbrances of what name or nature soever, that might in any measure or degree obstruct or make void this present deed.

Furthermore, I, the said Christopher Dexter, for myself, my heirs, executors, and administrators, do covenant and engage the above demised premises, to him, the said Edward Dexter, his heirs and assigns, against the lawful claims or demands of any person or persons whatsoever, for ever hereafter to warrant, secure, and defend, by these presents.

In witness whereof, I have hereunto set my hand and seal, this seventeenth day of December, in the thirty-third year of his Majesty's reign, A. D. 1759.

CHRISTOPHER DEXTER, [L. S.]

Signed, sealed, and delivered, in presence of
GEORGE TAYLOR,
GEORGE TAYLOR, Jr.

PROVIDENCE, to wit: 838.

In Providence, this 19th day of December, A. D. 1759, Christopher Dexter, the grantor above named, personally acknowledged the above written instrument to be his own free act and deed, before me,

GEORGE TAYLOR, *J. P.*

RHODE ISLAND DISTRICT, ss.—*Circuit Court, January term*, 1828.

I hereby certify the preceding to be a true copy of the original deed (marked No. 2 in the bill of exceptions) of Christopher Dexter to Edward Dexter, duly produced on trial of said cause, and examined and compared by me. Witness,

BENJAMIN COWELL, *Clerk.*

DEED, No. 3.

To all people to whom these presents shall come, greeting:

Know ye, that I, Christopher Dexter, of Providence, in the county of Providence, yeoman, for and in consideration of the love and good will that I have and do bear unto my loving sisters, Susannah Brown, Freelove Randall, and Wait Field, all of Providence, as also to fulfil the mind and intent of my honored father, Stephen Dexter, late of said Providence, yeoman, deceased, have given, grated, bargained, aliened, conveyed, and confirmed, and by these presents do freely, fully, and absolutely, give, grant, bargain, alien, convey, and confirm, unto them, the said Susannah Brown, Freelove Randall, and Wait Field, and to their heirs and assigns for ever, a certain tract or parcel of land, containing three hundred and thirteen acres, be the same more or less, situate, lying and being in the town of Gloucester, on the south side, and adjoining to the swamp commonly called and known by the name of Littleworth cedar swamp, laid out upon the original right of John Whipple, deceased, and Gregory Dexter, and is butted and bounded as by the return thereof may appear. To have and to hold the said granted and bargained premises, with all the appurtenances, privileges, and commodities, to the same belonging, or in anywise appertaining, to them, the said Susannah, Freelove, and Wait, their heirs and assigns for ever, to them and their only proper use, benefit, and behoof, for ever.

And I, the said Christopher Dexter, for myself, my heirs, executors, and administrators, do covenant, promise, and grant, to and with Susannah, Freelove, and Wait, and with their heirs and assigns, that, before the ensealing hereof, I am the true, sole, and lawful owner of the above bargained premises, and am lawfully seized and possessed of the same in my own proper right, as a good, perfect, and absolute estate of inheritance, in fee simple, and have, in myself, good right, full power and authority, to grant, bargain, convey, and confirm said bargained premises in manner as aforesaid; and that the said Susannah, Freelove, and Wait, their heirs and assigns, shall and may, from time to time, and at all times for ever hereafter, by force and virtue of these presents, lawfully, peaceably, and quietly, have, hold, use, occupy, possess, and enjoy the said demised and bargained premises, with the appurtenances, free and clear, and freely and clearly acquitted, exonerated, and discharged of, from all and all manner of former or other gifts, grants, bargains, sales, leases, mortgages, wills, entails, jointures, dowries, judgments, executions, or incumbrances, of what name or

nature soever, that might in any measure or degree obstruct or make void this present deed.

Furthermore, I, the said Christopher Dexter, for myself, my heirs, executors, and administrators, do covenant and engage the above demised premises to them, the said Susannah Brown, Freelove Randall, and Wait Field, their heirs and assigns, against the lawful claims or demands of any person or persons whatsoever, for ever hereafter to warrant, secure, and defend, by these presents.

In witness hereof, I have hereunto set my hand and seal, the 17th day of December, in the 33d year of his Majesty's reign, A. D. 1759.

CHRISTOPHER DEXTER. [L. S.]

Signed, sealed, and delivered in the presence of
GEORGE TAYLOR,
GEORGE TAYLOR, Jr.

PROVIDENCE, to wit:

In Providence, the 19th day,* A. D. 1759, Christopher Dexter, the grantor above named, personally acknowledged the above written instrument to be his own free act and deed, before me,

GEO. TAYLOR, *J. P.*

RHODE ISLAND DISTRICT, sc.—*Circuit Court, January term,* 1828.

I certify the preceding to be a true copy of the original deed of Christopher Dexter to his sisters, Susannah Brown, Freelove Randall, and Wait Field, duly produced on trial of said cause, and marked No. 3, and examined and compared by me.

Witness, BENJAMIN COWELL, *Clerk.*

WRIT. [*Nos.* 4 *and* 5, *referred to in bill of exceptions.*]

JOSEPH DEXTER *vs.* JEREMIAH DEXTER.

PROVIDENCE.—*George the Second, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c., to the sheriff of our county of Providence, or to his deputy, greeting:*

We command you to arrest the body of Jeremiah Dexter, of Providence, in the county of Providence, husbandman, if he may be found in your precinct, and, for want of his body, to attach his goods and chattels, and him or them in safe custody keep, until he give sufficient bond, returnable according to law, to answer the complaint of Joseph Dexter, of said Providence, an infant within the age of twenty-one years, at the next inferior court of common pleas, to be holden at Providence, within and for our said county of Providence, on the third Tuesday of June next ensuing the date hereof, in an action of trespass, for that the said defendant, upon the twentieth day of December, A. D. 1759, and at divers other days and times, until the first day of May present, into the wood lands of the plaintiff, situate in said Providence, with force and arms did enter, and did then and there cut down and carry away two hundred oak trees, of the value of four hundred pounds, unto the plaintiff belonging, and other enormities did then and there commit and do, against our peace and to the plaintiff's great hurt, as by declara-

*An omission in the original.

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tion to be filed in court will be fully set forth; which trespass is to the damage of the plaintiff five hundred pounds, current money of New England.

Hereof fail not, and make true return of this writ, with your doings thereon.

Witness Daniel Jenckes, Esq., at Providence, this twenty-second of May, in the thirty-third year of our reign, A. D. 1760.

NICHOLAS BROWN, *Clerk.*

RETURN.

Providence, May 26, 1760. This writ on the defendant's body, by
ALLEN BROWN, *Sheriff.*

Fees 11*s.*

DECLARATION.

PROVIDENCE, ss.—*To the Honorable Inferior Court of Common Pleas, to be holden in Providence on the third Tuesday of June, A. D.* 1760.

Joseph Dexter, of Providence, in the county of Providence, an infant within the age of twenty-one years, by Thomas Lapham, Esq., his guardian, complains against Jeremiah Dexter, of said Providence, husbandman, in the custody of the sheriff, in an action of trespass, for that the said defendant, on the twentieth day of December, 1759, and at divers other days and times, until the first day of May present, into the wood lands of the plaintiff, situate in said Providence, with force and arms did enter, and did then and there cut down and carry away two hundred oak trees, of the value of four hundred pounds, unto the plaintiff belonging, and other enormities did then and there commit and do, against his Majesty's peace and to the plaintiff's great hurt; which trespass is to the plaintiff's damage five hundred pounds, current money of New England, as laid in his writs, dated the twenty-second day of May, in the thirty-third year of his present Majesty's reign, A. D. 1760; thereon he sues, by

JOHN APLIN, *his attorney.*

PLEA.

The within named Jeremiah Dexter, the defendant, comes into court and defends the force and injury, when, &c., and saith the plaintiff's action ought not to be maintained, and said he is not guilty in manner and form as in the plaintiff's declaration; of that puts himself upon the country, &c.

ANDREWS, *for the defendant.*

"WITHDRAWN."

Circuit Court U. S., June term, 1828.

I certify the preceding to be a true copy of the original writ and declaration, brought into court by the aforesaid writ of *duces tecum,* in the case of Thomas Lapham, guardian, against Jeremiah Dexter, which papers are referred to in the bill of exceptions by Nos. 4 and 5.

Witness,

BENJAMIN COWELL, *Clerk.*

MANDATE.

Supreme Court of the United States of January Term, 1830.

No. 54.—Oliver Saunders, Plaintiff, *vs.* Benjamin Gould.

This cause came on to be heard on the transcript of the record from the circuit court of the United States for the first circuit and the district of Rhode Island, and on the certificate of the division of the Judges thereof; on inspection whereof, this court is of opinion that the whole cause, and not a point or points in the cause, has been adjourned to this court. Whereupon it is ordered and adjuged by this court that this cause be, and the same is hereby, remanded to the said circuit court, with directions to proceed therein according to law. March 2d, 1830.

I, William Thomas Carroll, Clerk of the Supreme Court of the United States, do hereby certify, that the above is a true copy of the order of said Supreme Court, made in the above cause at January term, eighteen hundred and thirty, extracted from the minutes of said Supreme Court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said Supreme Court, this first day of May, in the year of our Lord one thousand eight hundred and thirty.

[L. S.] WILLIAM THOMAS CARROLL,
Clerk of the Supreme Court of the United States.

PROBATE CERTIFICATE.

At a court of probate, holden at the council chamber in Newport, on Monday, March 3d, A. D. 1823, at 9 o'clock A. M.

Members, Nicholas Taylor, William Ennis, Theophilus Topham, Daniel Denham, and William W. Freeborn, Esquires, present.

Audley Clarke, William C. Gardiner, Samuel F. Gardiner, and Eliza G. Phillips, request this court to appoint the said Audley Clarke and Samuel F. Gardiner administrators upon the estate of Mary C. Gardiner, deceased, intestate, by their attorney, B. HAZARD.

John A. Collins also comes into court, and objects to the above persons being appointed, and moves this court that he may be appointed administrator on the estate of the said Mary C. Gardiner, deceased. Whereupon the court postpone the appointment of an administrator until this afternoon at 2 o'clock P. M.

Clerk's Office, Monday, March 3d, 1823, 2 o'clock P. M.

All the members present. The counsel for John A. Collins moved the court that the appointment of an administrator on the estate of Mary C. Gardiner, deceased, be postponed until Saturday, the 15th instant, and the court sustained the motion, and appoint 10 o'clock A. M. of that day to meet at the clerk's office for that purpose.

At a court of probate, holden by adjournment, at the clerk's office in Newport, on Saturday, March 15, A. D. 1823,

840.

Members present, Nicholas Taylor, William Ennis, Theophilus Topham, Daniel Denham, and William W. Freeborn, Esquires.

On the application of Audley Clarke, William C. Gardiner, Samuel Fowler Gardiner and Eliza G. Phillips, of Newport aforesaid, to appoint the said Audley Clarke and Samuel Fowler Gardiner administrators on the estate of Mary C. Gardiner, late of said Newport, deceased; and also on the application made by John A. Collins, that he might be appointed the administrator on the estate of the said Mary C. Gardiner, deceased; the court, after hearing the parties by their counsel, order and decree that letters of administration on the estate of the said Mary C. Gardiner, deceased, be granted to the said Audley Clarke and Samuel Fowler Gardner, and that the application on motion made by John A. Collins be overruled.

The court do further appoint William Marchant, Nathan B. Hammett, and Joshua Pickham, to appraise said estate.

Clerk's Office, Court of Probate, Newport, Rhode Island, Nov. 10, 1830.

I hereby certify that the foregoing are true copies from the book of probate proceedings, in this office. In testimony whereof, I have hereto set my hand, the day and year above written.

BENJAMIN B. HOWLAND, *Probate Clerk.*

Fees 25 cents.

AGREEMENT OF PARTIES.

In the case Anthony Saunders vs. Thomas P. Ives and others.

The parties agree to the following statement of facts:

That Stephen Dexter, in the year 1758, was seized of the premises described in the plaintiff's declaration, together with other valuable real estates; and that, on the 28th day of December, 1758, he died very suddenly, intestate, leaving issue as follows: Joseph Dexter and Moses Dexter, his grandsons, children of his deceased and oldest son, Joseph Dexter, by Mary Esten, wife of the said Joseph; and that his said grandson, Joseph Dexter, was his sole heir at law. The said Stephen also left the following children, to wit: Christopher Dexter, Jeremiah Dexter, Edward Dexter, Freelove Randall, wife of Peter Randall, Susan Brown, wife of Benjamin Brown, and Wait Field, wife of Charles Field.

The parties also agree, that, at the June term, A. D. 1760, of the court of common pleas within and for the county of Providence, and State of Rhode Island, four actions of partition were commenced by the said Christopher Dexter, and the other children of the said Stephen Dexter, against the said Joseph Dexter; and that, at the same term, judgments were rendered against the said Joseph in each of said actions, and executions issued thereon; and the said premises demanded in the declaration of the said Anthony Saunders were set off in severalty to the said Joseph Dexter, as by the copies of the said judgments, proceedings, and executions, will appear. The parties further agree, that the said Joseph Dexter, grandson of the said Stephen Dexter, deceased, entered into the possession of the demanded premises on the death of the said Stephen, and continued and was in possession thereof at the time of the commencement of and proceedings in partition, and that he continued seized thereof in fee simple until some time during the year 1813, when he died intestate and without issue; and that the children of the said Stephen Dexter, deceased, took possession of the other real estates of

which the said Stephen Dexter was seized, described in said judgments and proceedings at the time mentioned thereon, and remained in possession thereof until their respective deaths; but whether the said Joseph took said demanded premises as purchaser or as heir at law of the said Stephen, are submitted as questions of law upon the whole of said proceedings.

The parties further agree, that, upon the death of the said Joseph Dexter, in the year 1813, the demanded premises descended to the said Moses Dexter, the grandson of the said Stephen Dexter, and brother and sole heir at law of the said Joseph; and that the said Moses thereupon entered into possession of said premises, and became and remained seized thereof in fee simple until some time in the year 1825, when he died intestate and without issue.

The parties further agree, that the said Joseph and Moses Dexter were under guardianship from their childhood to their deaths, on account of infancy, lunacy, and insane memory, except that the said Joseph was not under guardian from the year 1773 to the year 1777. The parties further agree, that Joseph Randall and others, named defendants in said action, (except the said Thomas P. Ives and Benjamin Gould,) are lineally descended from the said Christopher Dexter, deceased, and the other deceased children of the said Stephen Dexter; and that, except as aforesaid, are the next of kin of the said Moses and Joseph, deceased, of the whole blood of the said Stephen first named, and the next of kin of the said Moses and Joseph, of the blood of the said Stephen, from whom the demanded premises came or descended.

The parties also agree, that Mary Esten, wife of the said Joseph Dexter, deceased, and mother of the said Joseph and Moses Dexter, was the daughter of Cornelius Esten, the guardian, ad litem, to the said Joseph Dexter, in said actions of partition; that the said Mary Esten, after the death of her husband, Joseph Dexter, time of the said Stephen Dexter, married Robert Polluck, by whom she had two daughters, Polly and Margaret; that the said Polly married Oliver Saunders, by whom she had five children, to wit: Oliver Saunders, Anthony Saunders, Erastus Saunders, and Cyrel Saunders, who are still living, and Sally Saunders, who is dead, and has left lawful issue; that the said Margaret married David Leslie, and is still living; and that the said Margaret, and the children of the said Polly Saunders, deceased, are the nearest of kin of the said Joseph and Moses Dexter, but are of the half blood of the said Joseph and Moses, on the part of their mother, Mary Esten, and are not of the blood of the said Stephen. The parties also agree, that the said Mary Esten, the mother of the said Margaret Leslie, died before the said Joseph and Moses Dexter.

The parties also agree, that, on the third day of July, 1827, the said Margaret Leslie, and David Leslie, her husband, conveyed to Walter Paine all her right, title, and interest, in and to the demanded premises; and that, on the 26th day of March, 1828, the said Margaret and David entered in and upon said demanded premises, and delivered said deed to the said Walter, as by said deed, power of attorney, and certificate of Esek Esten and Walter Paine, jr., appear. The parties further agree, that, on the fifth day of , 1828, the said Walter entered in and upon the demanded premises, and delivered to John Whipple the deed hereto annexed of said premises, and thereby conveyed all his right, title, and interest, in and to the same, to the said John; and that, on the day of , A. D. 1829, the said John entered in and upon said demanded premises, and made, executed, and deli-

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vered to the said Elijah Ingraham the deed hereto annexed, of all his right, title, and interest, in and to said premises. The legal effect, validity, and sufficiency of all or either of the said deeds to convey said premises from the said Margaret Leslie to the said Elijah Ingraham is referred to the court as matter of law. The parties also agree, that, on the death of the said Moses Dexter, the said Joseph Randall and others, and the said Benjamin Gould, as their servant, and by their license, entered into the possession of the demanded premises as heirs at law, and have continued and still remain in possession thereof.

J. WHIPPLE, *plaintiff's attorney.*
D. RANDALL & J. L. TILLINGHAST, *for defts.*

This agreement to apply to all the cases for possession of the same premises now in this court.

J. WHIPPLE, *plaintiff's attorney.*
D. RANDALL & J. L. TILLINGHAST, *for defts.*

JUDGMENT.

Circuit court, November term, 1830.

The preceding case, which was remanded to this court for trial under the preceding mandate from the Supreme Court, now being called, is argued to the court upon the preceding statement of facts. Whereupon it is considered by the court here that the plaintiffs have and recover of the defendants the possession of the lands sued for in his said declaration, and his costs of suit, taxed at —.

Witness, B. COWELL, *Clerk.*

MOTION FOR WRIT OF ERROR.

RHODE ISLAND DISTRICT, sc.—*To the honorable the justices of the circuit court of the United States for said district.*

In the case Oliver Saunders vs. Benjamin Gould and others.

The defendants in this case give your honors to understand and be informed, that a judgment was rendered at the last November term of the circuit court of the United States within and for said district in favor of the plaintiffs and against the defendants, and that it is their desire and intention to remove the cause to the Supreme Court of the United States for trial, in pursuance of law in such case made and provided. Whereupon, they pray your honors to grant to them a writ of error in said case, and they are ready to give such bond for securing costs as may be required.

By their attorney,
DEXTER RANDALL.

January 24, 1831.

AT CHAMBERS, *January* 31, 1831.

Let notice issue to the said Oliver Saunders, to be served on him or his attorney, to show cause, on Friday, the 4th of February next, at 11 o'clock, A. M., at the district court room, if any he hath, why the said writ of error should not issue as above prayed for.

JOHN PITMAN,
District Judge U. S. for Rhode Island district.

AT CHAMBERS, *February* 4, 1831.

The marshal not having returned the notice which issued as above ordered, and John Whipple, Esq., the attorney on record of the said Oliver Saunders, being out of town, let another notice issue, to be served on the said Oliver Saunders or his said attorney, to show cause, as aforesaid, on Monday, the 7th of February instant, at 11 o'clock A. M., at the district court room.

JOHN PITMAN,
District Judge U. S. for Rhode Island district.

AT CHAMBERS, *February* 7, 1831.

Let a writ of error issue in the above cause, the said defendants filing a bond in the sum of $200, conditioned for the prosecution of the same and the payment of costs, &c.

JOHN PITMAN,
District Judge U. S. for said district.

NOTICE.

RHODE ISLAND DISTRICT, sc.—*To Oliver Saunders, of Woodstock, in the Connecticut district, or to John Whipple, Esquire, of Providence, in the Rhode Island district, greeting:*

In the case of Oliver Saunders *vs.* Benjamin Gould and others, in which judgment was rendered at the last term of the circuit court of the United States within and for said district, and in which you, the said Oliver, was plaintiff, and you, the said John, his attorney of record, the said Benjamin and others, by their attorney, have prayed for a writ of error, to remove the said cause before the Supreme Court of the United States for trial; and for this purpose have moved the Honorable John Pitman, Judge of the United States within and for said district; and our said Judge has ordered you notified to appear before him, to show cause why a writ of error should not issue as prayed for.

You are, therefore, hereby required to appear before him on Monday, the 7th of February next, at 11 o'clock A. M., to show cause why said writ of error should not issue as prayed for. And the Marshal of said district is hereby required to make service of this notice on the said Saunders, or, in his absence, on his said attorney, and make his return on or before said Monday; and hereof fail not.

BENJAMIN COWELL, *Clerk.*

PROVIDENCE, *January* 31, 1831.

RHODE ISLAND DISTICT, *February* 4, 1831.

I have this day, at 3 o'clock P. M., made service of this notice, by leaving a true and attested copy hereof, at the last and usual place of the abode of the within named John Whipple, attorney to the within named Oliver Saunders; the said Saunders not by me to be found in my district.

B. ANTHONY, *Marshal.*

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RHODE ISLAND DISTRICT, sc.—*Clerk's Office of the Circuit Court U. S. Providence, February* 15, 1831.

I, Benjamin Cowell, clerk of said court, do hereby certify that the preceding 84 pages contain an authentic transcript of the record in the case of Oliver Saunders, plaintiff, against Benjamin Gould and others, defendants; which transcript has been compared with the original record and files here in this office remaining.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Providence, in said district, this fifteenth day of February, A. D. 1831.

[L. S.] BENJAMIN COWELL, *Clerk.*

WRIT OF ERROR.

UNITED STATES OF AMERICA, RHODE ISLAND DISTRICT, sc.

The President of the United States, to the Judges of the Circuit Court of the United States, holden in and for the Rhode Island district, greeting:

Because that in the record and process, and also in the rendering of judgment, in a suit before you, or some of you, between Oliver Saunders, of Woodstock, in the State of Connecticut, yeoman, a citizen of the State of Connecticut, plaintiffs, and Benjamin Gould, Joseph Randall, William Randall, John Randall, Stephen Randall, Martha Howell, Sally Brown, (by her guardian Stephen Martin,) Amey Martin, Israel Arnold, Susannah Dexter, Anna Dexter, Freelove Dexter, Stephen Dexter, Edward Dexter, Amey Brown, Edward Dexter, jr., and Thomas P. Ives, defendants, in a plea of trespass and ejectment, a manifest error has intervened, to the great damage of the said defendants, as in their complaint has been stated, and it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties aforesaid in this behalf; you are hereby commanded, that, if judgment thereof be given, then, under your seal, you do distinctly and openly send the record and process in the suit aforesaid, with all the things concerning them, and this writ, so that you have the same before the Chief Justice and the Associate Justices of the Supreme Court of the United States, now holden at Washington, being the present seat of the National Government, that the record and process aforesaid being inspected, they may cause to be done thereupon what of right ought to be done.

Witness the Honorable John Marshall, Esq., our Chief Justice of said Supreme Court, at Providence, this seventh day of February, A. D. 1831.

BENJAMIN COWELL, *Clerk.*

February 7, 1831. *Allowed.*

JOHN PITMAN,
District Judge United States for Rhode Island district.

AT CHAMBERS, *February* 4, 1831.

The marshal not having returned the notice which issued as above ordered, and John Whipple, Esq., the attorney on record of the said Oliver Saunders, being out of town, let another notice issue, to be served on the said Oliver Saunders or his said attorney, to show cause, as aforesaid, on Monday, the 7th of February instant, at 11 o'clock A. M., at the district court room.

JOHN PITMAN,
District Judge U. S. for Rhode Island district.

AT CHAMBERS, *February* 7, 1831.

Let a writ of error issue in the above cause, the said defendants filing a bond in the sum of $200, conditioned for the prosecution of the same and the payment of costs, &c.

JOHN PITMAN,
District Judge U. S. for said district.

NOTICE.

RHODE ISLAND DISTRICT, sc.—*To Oliver Saunders, of Woodstock, in the Connecticut district, or to John Whipple, Esquire, of Providence, in the Rhode Island district, greeting:*

In the case of Oliver Saunders *vs.* Benjamin Gould and others, in which judgment was rendered at the last term of the circuit court of the United States within and for said district, and in which you, the said Oliver, was plaintiff, and you, the said John, his attorney of record, the said Benjamin and others, by their attorney, have prayed for a writ of error, to remove the said cause before the Supreme Court of the United States for trial; and for this purpose have moved the Honorable John Pitman, Judge of the United States within and for said district; and our said Judge has ordered you notified to appear before him, to show cause why a writ of error should not issue as prayed for.

You are, therefore, hereby required to appear before him on Monday, the 7th of February next, at 11 o'clock A. M., to show cause why said writ of error should not issue as prayed for. And the Marshal of said district is hereby required to make service of this notice on the said Saunders, or, in his absence, on his said attorney, and make his return on or before said Monday; and hereof fail not.

BENJAMIN COWELL, *Clerk.*

PROVIDENCE, *January* 31, 1831.

RHODE ISLAND DISTRICT, *February* 4, 1831.

I have this day, at 3 o'clock P. M., made service of this notice, by leaving a true and attested copy hereof, at the last and usual place of the abode of the within named John Whipple, attorney to the within named Oliver Saunders; the said Saunders not by me to be found in my district.

B. ANTHONY, *Marshal.*

842.

RHODE ISLAND DISTRICT, sc.—*Clerk's Office of the Circuit Court U. S. Providence, February* 15, 1831.

I, Benjamin Cowell, clerk of said court, do hereby certify that the preceding 84 pages contain an authentic transcript of the record in the case of Oliver Saunders, plaintiff, against Benjamin Gould and others, defendants; which transcript has been compared with the original record and files here in this office remaining.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Providence, in said district, this fifteenth day of February, A. D. 1831.

[L. S.] BENJAMIN COWELL, *Clerk.*

WRIT OF ERROR.

UNITED STATES OF AMERICA, RHODE ISLAND DISTRICT, sc.

The President of the United States, to the Judges of the Circuit Court of the United States, holden in and for the Rhode Island district, greeting:

Because that in the record and process, and also in the rendering of judgment, in a suit before you, or some of you, between Oliver Saunders, of Woodstock, in the State of Connecticut, yeoman, a citizen of the State of Connecticut, plaintiffs, and Benjamin Gould, Joseph Randall, William Randall, John Randall, Stephen Randall, Martha Howell, Sally Brown, (by her guardian Stephen Martin,) Amey Martin, Israel Arnold, Susannah Dexter, Anna Dexter, Freelove Dexter, Stephen Dexter, Edward Dexter, Amey Brown, Edward Dexter, jr., and Thomas P. Ives, defendants, in a plea of trespass and ejectment, a manifest error has intervened, to the great damage of the said defendants, as in their complaint has been stated, and it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties aforesaid in this behalf; you are hereby commanded, that, if judgment thereof be given, then, under your seal, you do distinctly and openly send the record and process in the suit aforesaid, with all the things concerning them, and this writ, so that you have the same before the Chief Justice and the Associate Justices of the Supreme Court of the United States, now holden at Washington, being the present seat of the National Government, that the record and process aforesaid being inspected, they may cause to be done thereupon what of right ought to be done.

Witness the Honorable John Marshall, Esq., our Chief Justice of said Supreme Court, at Providence, this seventh day of February, A. D. 1831.

BENJAMIN COWELL, *Clerk.*

February 7, 1831. *Allowed.*

JOHN PITMAN,
District Judge United States for Rhode Island district.

UNITED STATES OF AMERICA, RHODE ISLAND DISTRICT, &c.

The President of the United States, to the Judges of the Circuit Court of the United States, holden in and for the Rhode Island district, greeting:

Because that in the record and process, and also in the rendering of judgment, in a suit before you, or some of you, between Oliver Saunders, of Woodstock, in the State of Connecticut, yeoman, a citizen of the State of Connecticut, plaintiffs, and Benjamin Gould, Joseph Randall, William Randall, John Randall, Stephen Randall, Martha Howell, Sally Brown, (by her guardian, Stephen Martin,) Amey Martin, Israel Arnold, Susannah Dexter, Anna Dexter, Freelove Dexter, Stephen Dexter, Edward Dexter, Amey Brown, Edward Dexter, jr., and Thomas P. Ives, defendants, in a plea of trespass and ejectment, a manifest error has intervened, to the great damage of the said defendants, as in their complaint has been stated; and it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties aforesaid in this behalf; you are hereby commanded, that, if judgment thereof be given, then, under your seal, you do distinctly and openly send the record and process in the suit aforesaid, with all the things concerning them, and this writ, so that you have the same before the Chief Justice and the Associate Justices of the Supreme Court of the United States, now holden at Washington, being the present seat of the National Government, that the record and process aforesaid being inspected, they may cause to be done thereupon what of right ought to be done.

Witness the Honorable John Marshall, Esq., our Chief Justice of said Supreme Court, at Providence, this seventh day of February, A. D. 1831.

BENJAMIN COWELL, *Clerk.*

February 7, 1831. Allowed.

JOHN PITMAN,
District Judge United States for Rhode Island district.

I certify the preceding to be a true copy of the writ of error attached to the transcript of the record in the above mentioned case.

BENJAMIN COWELL, *Clerk.*

In the case Oliver Saunders *vs.* Benjamin Gould, &c.

It is agreed by and between the parties, that the writ of error in this case be entered in the Supreme Court of the United States, at the present term thereof; and that the case stand continued to the next term of said court, then to be argued in writing by the parties.

The plaintiffs in error agree to furnish the counsel for the defendants in error their opening argument on or before the first of October next; and the defendant agrees to furnish his reply to the same by the first of November following; and the plaintiff's rejoinder to be furnished on or before the 20th day of January, A. D. 1832.

And for the convenience of the parties, and avoiding the hazard of sending the original writ of error, and copies of the record, to Washington, by mail, it is further agreed, that a certified copy of the writ of error be forwarded to the said court at Washington, and to be entered therein, and the

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original writ of error and copies of the record to be forwarded by some safe conveyance, as soon as convenient.

February 17, 1831.

RANDALL AND TILLINGHAST,
Attorneys for plaintiffs in error.
EDWARD DEXTER,
Agent for the heirs of the late Moses Dexter, deceased.
JOHN WHIPPLE,
Attorney to Oliver Saunders.

PROVIDENCE, *March* 1, 1831.

The above agreement is to remain in full force on the reception of the transcript of the record and writ of error by the Clerk of the Supreme Court, in the same manner as though the case had been entered without the transcript, &c., and writ of error.

RANDALL AND TILLINGHAST,
Attorneys for plaintiffs in error.
JOHN WHIPPLE,
Attorney to Oliver Saunders.
EDWARD DEXTER,
Agent for the heirs of the late Moses Dexter, deceased.

UNITED STATES OF AMERICA, RHODE ISLAND DISTRICT, sc.

To the Marshal of the said district of Rhode Island, or to his deputy, greeting:

Whereas in a certain action of ejectment, wherein Oliver Saunders was plaintiff, and Benjamin Gould and others defendants, judgment was therein rendered for the plaintiff, at the November term of the circuit court of the United States, holden in Providence, in and for the Rhode Island district, on the fifteenth day of November last past; and whereas the said defendants have sued out a writ of error, to remove the record and proceedings in said action before the Supreme Court of the United States, now holden at Washington, on the first Monday in January, A. D. 1831, which writ of error has this day been allowed by me the undersigned; you are therefore required to notify the said plaintiff of the premises forthwith, and cite him to appear at the said Supreme Court of the United States, at the said city of Washington, in thirty days from the day of the service of this citation, if he shall think fit, and to do and receive what the said Supreme Judicial Court shall see fit to do in the premises. Hereof fail not, but make due return to the said Supreme Judicial Court of your doings herein. Given under my hand and seal, this seventh day of February, A. D. 1831.

JOHN PITMAN,
District Judge U. S. for Rhode Island district.

PROVIDENCE, 11*th February*, 1831. I hereby acknowledge service of this writ.

JOHN WHIPPLE,
Attor'y to Oliver Saunders.